

Elite consensus: The case of land reform in South Africa

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Declaration

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“Every challenging work, needs self-efforts as well as guidance of elders especially those who are close to our hearts”. My humble accomplishment, I dedicate my work to my loving grandparents,

Harry and Ada Topkin and Doreen Christians.

Whose devotion, prayers, affection and love helped to get such honor and success.

To my parents, Roger and Delmaine Christians, and my sister, Tyla Christians, whose care for me made it possible for me to complete this work. I would not have been able to do it without you.

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Abstract

This study explores elite consensus among the political elites across the African National Congress (ANC), the Democratic Alliance (DA) and the Economic Freedom Fighters (EFF) on the land redistribution question in South Africa. Data for this study was gathered through parliamentary committee meetings, parliamentary caucus meetings, policy documents, and party manifestos from 2018 to 2020.

This study analysed the media statements, reports, caucus meetings and policy documents of each political party separately. This was done to identify each party's values, opinions and behaviours in relation to procedural and institutional consensus and consensus on core values and agreement over vital policy matters. The premise of this thesis is that the styles of engagement among these elites hinder the progress of land reform because elites across the ANC, the DA and the EFF are uncooperative, antagonistic and uncompromising on their values and opinions in relation to land reform. However, political elites have carried out their debates within the democratic framework, even though it is somewhat robust and frictional. Robust and frictional interaction between political elites during debates should not be confused with a lack of agreement on the rules of the game.

From this set of findings, it is concluded that political elites in South Africa can be considered "consensually unified" in relation to the codes of conduct and rules of the political system. Moreover, all political elites in South Africa have the chance to get involved in central decision-making that provides effective and reliable access to one another. However, political elites do not agree on how the land question should be addressed. This lack of agreement among the political elites across the ANC, the DA and the EFF continues to hinder the progress of land redistribution. The existing lack of agreement on some ideological (values) issues is not sufficient to undermine elite consensus on the rules of the game or democratic procedures.

Abstrak

Hierdie studie ondersoek elite-konsensus onder die politieke elite in die African National Congress (ANC), die Demokratiese Alliansie (DA) en die Economic Freedom Fighters (EFF) oor die grondherverdelingsvraagstuk in Suid-Afrika. Gegewens vir hierdie studie is versamel deur vergaderings van die parlementêre komitees, politieke elite-onderhoude, parlementêre koususvergaderings, beleidsdokumente en partymanifeste, vanaf 2018 - 2020.

Hierdie studie het die mediaverklarings, verslae, onderhoude, koususvergaderings en beleidsdokumente van elke politieke party afsonderlik ontleed. Dit is gedoen om die waardes, menings en gedrag van elke party te identifiseer met betrekking tot prosedurele en institusionele konsensus en konsensus oor kernwaardes en ooreenkoms oor belangrike beleidsaangeleenthede. Die uitgangspunt van hierdie tesis is dat die styl van betrokkenheid by hierdie elite die vordering van grondhervorming vertraag omdat elites regoor die ANC, die DA en die EFF nie samewerking toon nie, antagonismes en kompromisloos is oor hul waardes en menings in verband met grondhervorming. Terwyl elite binne die parlementêre arena saamwerk en mekaar verdra, aanvaar sommige elite-groeperings mekaar nie noodwendig as wettige deelnemers aan die politieke proses nie. Verder is daar min ooreenkoms oor die wettigheid van die huidige grondwetlike bestel ten opsigte van die kwessie van grondhervorming.

Uit hierdie stel bevindings word die gevolgtrekking gemaak dat politieke elite in Suid-Afrika as 'konsensueel verenig' kan word in terme van die gedragskodes en reëls van die politieke stelsel. Boonop het alle politieke elite in Suid-Afrika die geleentheid om deel te neem aan sentrale besluitneming wat effektiewe en betroubare toegang tot mekaar bied. Politieke elite is nie in ooreenkoms oor hoe die grondvraagstuk aangespreek moet word nie. Hierdie gebrek aan ooreenkoms tussen die politieke elite regoor die ANC, die DA en die EFF belemmer steeds die vordering van grondhervorming.

Key words

Values: Things that are believed to be important. It determines one's priorities, standards or principles of behaviour

Vision: This can be defined as the optimal desired future state of being; a clear sense of purpose. It should not be confused as the same as goals or objectives. A vision helps defines the goals set by establishing a framework to evaluate those goals by.

Agreement: A situation in which individuals/groups share the same opinion, or in which they all accept or approve of something

Consensus: A generally accepted decision or opinion among different groups of people

Legitimate: Allowed/accepted by the law

Constitution: A set of political principles by which a regime is governed, especially in accordance to the rights of the citizens the regime governs

Expropriation: The act of taking away property/money, for the purpose of public interest without payment to the owner

Beneficiaries: An individual or group who receives advantages as a result of something

Policy: Set of plans or an idea of what to do in certain situations that has been deemed important by political parties, governments or business organizations

Opinion: a belief or thought about something

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Chapter 1: Introduction

1.1 Background and rationale

The legacy of colonialism and apartheid left many citizens without the opportunity to own land. Unequal land distribution in South Africa can be traced to the seventeenth century when colonialism began. The Natives Land Act 27 of 1913 restrained black South Africans from owning land outside the Homelands that were designated to them, restricting them further and resulting in the majority of the South African population being landless. The Native Trust and Land Act 8 of 1936 not only stated what kind of farming was permitted within these areas but also formed the foundation upon which forceful removal of black South Africans took place. Black South Africans who managed to keep their land were dispossessed in accordance to the Group Areas Act 41 of 1950 (Bosman, 2007: 2).

Unequal land distribution is still evident in democratic South Africa. While there have been acknowledgements, plans and Green Papers on land reform issues, the government has been slow to make genuine progress in terms of land restitution and redistribution (The Big Debate, 2017). The “government relied heavily on the concept of ‘willing-buyer, willing-seller’” (WBWS) (Lahiff, 2007: 1577). Since 1994, the government has strongly adopted pro-market approaches to land. However, according to Stuart Wilson, “willing-buyer, willing-seller was never going to cut it” because “markets in any event create inequality; they do not ameliorate it” (Wilson, 2018). The expropriation of land has become a major policy option to redistribute housing and land (Wilson, 2018).

In February 2018, there was a motion in parliament to amend the Constitution to allow for the expropriation of land without compensation (News 24, 2018). Ramaphosa explained how land expropriation will be implemented when he appeared before the National Assembly in August 2018 stating that land owned by various government entities, such as local government, does not need to be bought and should be “serviced and released to the people as a form of expropriation” (News24, 2018). Ramaphosa stated that with the releasing of land and the expropriation of land, government should be able to reach the land reform policy target of 30 percent (News24, 2018). The release of government-owned land and land owned by individuals will be dealt with in accordance with the Constitution (News24, 2018). Sticking to land reform policy as it currently stands, “protects the rights of the landless and landowners, thus upholding the rule of law” (Masinga and Hammond, 2008).

There are many factors that have contributed to current land reform policies not achieving the preferred outcomes. Included here is “state ineptness including”, the underspending “of budgets, lack of capacity and a lack of” consensus among political elites on land reform in the country (Bosman, 2007: 32). State ineptness is a major factor hindering land reform processes (Gran, 2007: 295).

Key challenges appear to be the extent of disagreement among the political elite across the largest political parties, the African National Congress (ANC), the Democratic Alliance (DA) and the Economic Freedom Fighters (EFF), on how to move forward with land reform. On the one hand, the DA firmly opposes land expropriation without compensation. The DA supports land distribution and land restitution and their aim is to make individuals “real property owners” (Maimane, 2018). The DA believes in the “promise of constitutional compact” and that section 25 of the Constitution should not be amended. Section 25 deals with property and property rights and states that land may not be expropriated without compensation but can be deprived arbitrarily or capriciously; it should be done in relation to the law (Constitution of the Republic of South Africa, 1996). According to Maimane, the Constitution should not be seen as an “impediment to effective land reform” (2018). On the other hand, in March 2018, the national discourse in Parliament was dominated by the EFF’s motion to amend the Constitution to “pave the way for expropriation of all private property” (Maimane, 2018). This was reinforced by the ANC.

The EFF’s election manifesto has jobs and land as its main focus, “with the state as the custodian of all land in the country” (Mahlakoana and Marrian, 2019). The ANC’s opinion on land reform is different from this because the party focuses on property ownership rights and the security of land and will only allow for the expropriation without compensation under strict conditions (Mahlakoana and Marrian, 2019). However, the EFF has pushed for all land, including private property, to be expropriated without compensation, and for the land to be nationalised (Mahlakoana and Marrian, 2019). Changes to the Constitution can only be done with a two-thirds majority, which the ANC cannot achieve on its own. The DA has stated that it will oppose any amendments to the constitution that threaten the ownership of private property (Maimane, 2019).

One of the main reasons why this study focuses on the ANC, the DA and the EFF is because the individuals within these political parties are much more involved, interested and more influential within the public domain regarding public policy and decision-making that directly affects the political system (Putnam, 1971: 651). This study will examine the similarities and differences in values and policy positions on land reform across the political elites within the ANC, the DA and the EFF. This is done by examining each political party’s manifestos, policies and speeches. In other words, this study analyses the three major parties’ policies on land reform and the consequences of their differences for building elite consensus in South Africa.

The aim of this study is to determine whether there is sufficient consensus among political elites to make a land reform policy viable in South Africa. This study will attempt to determine the extent of elite consensus on land reform across the major political elite groupings using appropriate theoretical indicators such as elite values, agreement on policy outcomes, and rules of the game when examining

key aspects of the land reform debate such as expropriation without compensation, and the need for constitutional changes. The study will focus on the period between 2018 and 2020.

1.1.1 Why land reform was chosen as a topic to research elite consensus

The land question in South Africa dates back to 107 years ago when the 1913 Natives Land Act was introduced. This started the process of forcefully dispossessing black families from their land. Black people were not allowed to buy or occupy land. This continued for decades. Once the apartheid government came into power in 1948, the regime began mass relocation of black families to poorly planned homelands and townships. Black people were unable to provide for their families and were forced to look for employment far away from their homes. The main consequence of this was the start of socio-economic challenges such as inequality, landlessness and poverty.

Post-apartheid South Africa still faces a variety of challenges that stem from injustices originated from apartheid, landlessness being one of these issues. The majority of the South African population still does not own land, nor do they have access to land. One of the first challenges the democratic government faced “was how to address the unequal distribution of land in the country (Kloppers and Pienaar, 2014: 677). Constitutional obligations were made by the democratic government to institute comprehensive land reform programs – a program that consisted of land redistribution, restitution and land tenure. The aim of this program was to redistribute 30% of white-owned agricultural land to black South Africans by 2014. However, less than 10% of this land has been redistributed. Moreover, over 90% of the land that has been redistributed is not being used productively (Kloppers and Pienaar, 2014: 678). This situation has contributed to an increase in poverty levels among land reform beneficiaries. This has forced landless South Africans to occupy land illegally.

Inequalities are defined by race and are conceptualised into the capitalist economy of South Africa. Socio-economic inequalities are based on gender, class and race. Thus, the unequal redistribution of land and insecure land rights were cultivated. The nature of land reform in the country is intrinsically complex. Land reform was agreed to after difficult negotiation processes. Land reform failures contributed to citizens believing that land reform programmes were in trouble. Moreover, many citizens have the perception that land reform is politically misguided (Cousins, 2016: 12). Land signifies ‘home’. The dispossession of land “serves as a powerful symbol of generalised oppression and carries a profound political charge” (Cousins, 2016: 12). Political parties in South Africa has invoked the land question as an attempt to gain supporters. According to Cousins, “political rhetoric draws on a narrative in which white farmers and foreigners are the villains, black South Africans are the victims and government (or opposition party) are the heroes rising to the rescue (2016: 12).

The African National Congress (ANC) is being challenged by the Economic Freedom Fighters (EFF) and the Democratic Alliance (DA) on which course is best suited for effective and efficient land reform in South Africa. The call for the expropriation of land without compensation has been acquired with varied emotions by citizens, political parties and other interest groups. While all political parties are in agreement that land reform is important, there is little consensus on how and which land reform programs should be implemented. The most basic assumption is that when political elites are in agreement on what constitutes the most fundamental and most important functions of a policy, the function will not be undermined (Bachrach, 1962: 443).

Considering the above challenges with regards to land expropriation as well as the ripple effects it has on the economic inequalities in the country, this study will contribute towards highlighting the differences and similarities in political elites policies, ideas and ideologies around land expropriation and in doing so could map a way forward for political parties to come to a consensus in terms of focusing on their similarities and working towards a land expropriation program that could accelerate the redistribution of land in the country.

1.2 Problem statement

Land reform is a broad societal challenge. Section 25 of the Constitution outlines the law on property rights and land, “prohibiting the arbitrary deprivation of property”, “limiting expropriation to cases directly associated to public interest for which individuals would receive just and equitable compensation” (Constitution of the Republic of South Africa, 1996). However, since the establishment of the Economic Freedom Fighters (EFF), “hard-left black-nationalists” have called for this section of the Constitution to be amended (The Economist, 2019). The ANC opposed amendments being made to the Constitution; however, fearing the “EFF was eroding its base of black voters, the party is now committed to amending section 25” (The Economist, 2019).

Any “debates on land reform in South Africa reckon with the unequal legacy of white rule” (The Economist, 2019). Before Dutch settlers arrived in South Africa in 1652, there had already been wars of conquest over land by the indigenous people; however, “white rule has changed the nature of conflicts over land” (The Economist, 2019). Under apartheid, the majority of black citizens were forcefully removed from their land and isolated into homelands. Apartheid deprived black South Africans of the right to own land outside the homelands. Moreover, during apartheid, most black citizens did not have land titles, which means they could not sell their property or borrow against their property; “land reform in South Africa is a comprehensible reflection of the continuing inequalities that were caused by white rule” (Cousins, 2018).

South Africa has not been able to reinstate land rights to those who were previously disadvantaged by apartheid legislation. Of the 77.51 “million hectares of land owned by the state, only 8.67 million hectares or 1.2 percent has been allocated to beneficiaries” since 1994 (Kirsten and Vink, 2019). The underlying premise of this thesis is that without consensual unity among political elites, land reform will be hindered. A lack of consensual unity over the fundamental issues regarding land reform in the context of a constitutional democracy may prove problematic for furthering democratic consolidation. Agreement over key democratic norms among the political elite is central to deepening democratic consolidation. Elite consensus is based on the “rock of self-interest; self-interest is the privileged and the influential in the continuation of the political system of which their privileges rest” (Bachrach, 1962: 442). The most basic assumption is that when political elites are in agreement on what constitutes the most fundamental and most important functions of the political system, consolidation will not be undermined (Bachrach, 1962: 443). Political elites only need to take into account the path travelled by Zimbabwe to understand the impact poor decision-making and implementation of land reform programmes can have on society (Swart, 2010: 2). In the Zimbabwean case, this has led to comprehensive economic and social unrest “and in many ways has created a failed democratic project” (Swart, 2010: 3). Therefore, it is important that political elites reach a consensus on land reform issues.

Land reform also has social, political, historical and economic importance in the country due to the injustices of unequal distribution of land during apartheid. Land reform programmes are significant to aspects of South Africa’s democracy because they are part of the transformation initiative and provide an appropriate example of how the rule of law finds expression. Moreover, land reform also captures essential aspects of citizen rights, particularly the right to own private property and what political elites think are the most viable ways to address the injustices of unequal land distribution. These aspects make land reform an appropriate case study for examining the main research question of this thesis.

1.3 Theoretical perspectives

1.3.1 Political elites and elite theory

Political elites determine institutional arrangements, power structures and governance. Putnam (1971: 651), loosely defines the political elite as those who are ranked at the top of the involvement, dimensions of interest and the influence they have in politics within a given society. The political elite can be “described as individuals with the power to make decisions that directly affect the policy” process and the political environment (Putnam, 1971: 652). Political elites are “powerful players who, although they may not belong to the same party or political network, share the same goals of acquiring

political power” (Blondel and Muller-Rommel, 2007: 820). Higley (2006) describes “elites as persons who, by virtue of their positions in important organisations, can affect political outcomes” substantially and regularly. In other words, they are a small part of the population with the capacity to influence political outcomes. Political elites play an essential role in setting the policy agenda as well as deciding which policy issues should receive priority in relation to others.

Despite the limited size of the political elite, they hold considerable power while the masses are submissive to them. This hypothesis forms the basis of elite theory (Higley, 2006: 15). Elite theory acknowledges that the individuals who hold power monopolise their power and make important decisions on policy issues for the masses (Higley, 2006: 15). Kifordu (2011), using the critical elite theory explains that if the political elite in a country have the power to make changes that directly affect political discourse, then the direction of that change is likely to be dependent on these few individuals. In relation to this theory, Rustow (1970: 32), stressed the importance of consensus among political elites as the foundation of democracy. Moreover, Rustow explains that democracy is best stabilised and maintained when consensus exists among the elites. The consensus could be in the form of common beliefs, the willingness to compromise or in the fundamentals of the rules of the game (Akinbode, 2017: 1).

By studying the values of political elites, one assumes that attitudes towards the political system matter. In a democracy, governance is about solving pressing issues, such as land reform, that society is faced with. By learning how to solve these issues, the political elite gain significant authority and power to adjudicate disagreements, “coordinate collective action and even structure the private and” public sectors in society (Stohler, 2010: 1257). Elite communication across political parties/political networks is greatly encouraged because dependency on common ideologies provides an efficient and powerful way of understanding the complexities of the political world, as well as problem solving. Moreover, if elite consensus exists among political elites on supporting democratic values and public policy solutions, these democratic values and policy solutions are more likely to be transferred and embedded into the political system (Peffley and Rohrschneider, 2007: 66).

1.3.2 Conceptualising elite consensus

Elite consensus plays an important role in the development of a country. Political elites have the power to influence democratic transformations and transitions and also have the ability to cause democratic breakdowns if they remain disunified on the rules of the game and policy decisions in a democracy. While it is important that political elites remain consensually unified, competition between these elites is essential. Elites compete to gain power and this ensures that more than one pressing societal issue is acknowledged by the regime.

Generally, the solidarity among elite theory scholars is that agreement among political elites is important for the socio-economic development of a country. Through collective decision-making, political elites are capable of influencing various sectors in society, thus playing a substantial role in development. Therefore, building consensus among political elites is a necessary base for national development and growth. Akinbode (2017: 3) explained that factors such as race, religion, ethnicity and background diversity among elites may hinder building consensus on policy issues because policy issues are often examined through the prism of those factors. Given that political elites often have different affiliations with different political parties, homogeneity of ideologies among these political elites is often inadequate (Akinbode, 2017: 3).

Democratic transitions and transformations are a product of political elite choices (O'Donnel and Schmitter, 1986). Higley and Burton (1989: 17) argue that stable democratic regimes are “heavily dependent on the consensual unity of political elites”. If the political elite are more politically active and more involved, it betters the chance of them coming to a shared consensus of the norms of democratic values in a country. However, no scholar has taken the position that consensus among political elites is absolute.

Sniderman et al (1991: 349) claims that the important “contrast is not between the masses and political elites, but rather between groups of political elites that are in competition for political power”. The main driver “of democratic politics is competition between political elites”. Political parties often disunite on issues of civil liberties in order to gain political advantage, out of difference political stances (Sniderman, 1991: 350). However, political elites cannot disunite to the point where they cannot come to an agreement on solutions to pressing policy issues. It is evident that it becomes more difficult to reach a consensus when more political elites are included in the process (Diamond, 1999: 173). If political elites disunite to the point where they cannot agree on a policy solution, the entire policy process will be hindered.

Reaching a consensus among political elites is a complex phenomenon. In most cases, outcomes of policy issues are associated with systematic incentives related to participation in formal alliances (Kreps, 2010: 201). Political elites often weigh the benefits and costs of joining alliances by exploring historical benefits and the probability of returns in the future as well as the costs that may arise (Kreps, 2010: 202). Elite consensus is facilitated when all political elites participate in policy processes and decision-making (Diamond, 1999: 174). Without proper participation among political elites on policy solution alternatives, implementation may become problematic (Diamond, 1999: 175). Moreover, it is important to include the masses in the process in order to prevent political threats in the form of a referendum on which the masses can vote and overthrow decisions made by the political elite (Robinson, 2000).

1.3.3 Importance of elite consensus

Elite consensus has been shown to be important to the democratic consolidation of a country because it offers the necessary legitimacy to opposing actors to reach towards a unity, and more importantly, a stable democracy needs democratic political culture among the masses that also extends simultaneously as the political elite starts their processes of inclusion (Diamond, 1994: 173; Higley and Gunther, 1992: 11). Benavides (2011: 19) argues that the consolidation of democracies depends on elite settlements and is “shaped by the behaviour and attitudes of the political elite”, rather than on the democratic preferences of society which has been the general view of many scholars of “political culture in developed countries”. However, it is important to mention that it becomes more difficult to reach a consensus when more political elites are included in the decision-making process (Diamond, 1994: 173). According to Sniderman, Fletcher, Russel, Tetlock and Gaines, the “engine of modern democratic politics is competition between elites that has been characteristically organised around the electoral system” (1991: 349).

Political elites must respect their oppositions’ viewpoints and the “rules of the democratic game” (Herson, 1975: 1012). In accordance with the political socialisation of political elites, the involvement of political elites in politics requires debates, negotiations, discussions, give and take and compromise. These factors are inherently important to democratic governance (Herson, 1975: 1013). The actual participation of political elites in politics should encourage respect of alternative viewpoints and political tolerance. However, participation will not always make political elites more tolerant. It could even make political elites less tolerant (Shamir, 1991: 1022).

Scholars have suggested that democratic transitions and democratic breakdowns are a product of elite choices (O’Donnell and Schmitter, 1986). A disunified political elite, “which is the most common type”, produces unstable democratic regimes. A consensually unified political elite, “which is rarer, produces stable” regimes that could advance into a modern democratic regime, as in Britain or Sweden. Higley and Burton (1989: 17) argue that “stable democratic regimes” are “heavily dependent on the consensual unity of political elites”. If political “elites remain disunified, political regimes are” considered unstable, a notion that makes democratic transitions and breakdowns merely a “temporary oscillation in the forms that unstable regimes take” (Higley and Burton, 1989: 17). This leads to the premise that in order to transition to a stable democracy, political elites must transform from disunity to consensually unified.

Democratic consolidation or democratic breakdown is dependent on how the attitudes, beliefs and values of political elites, as well as their interactions with one another, may affect the performance of government institutions and the policy process (Kearsey, 2007: 15). Moreover, one very important

policy in post-apartheid South Africa is related to the issue of land reform. Since the transition to democracy, growth has been slow and among the greatest barriers to growth is severe inequality (Agri News, 2018). Access to and ownership of land is one area where this disparity is most devastating. The World Bank has stated that the historically highly skewed distribution of land is one of the root causes of inequality in South Africa. Land reform is necessary in South Africa (Agri News, 2018). However, this is the only issue regarding land reform that there seems to be consensus on.

1.3.4 Land reform

Land inequalities are a “direct consequence of the racially discriminatory legislation that had been implemented” by the apartheid government (Bosman, 2007: 3). This legislation prevented the black population from owning land outside the native land reserves. The rest of the land was only made available to the white population (Leon, 2001: 12). In 1994, the African National Congress (ANC) came into power and had the responsibility to address these imbalances and injustices. However, there have been many implementation hurdles that have hindered the progress of land reform in the country. Besides cost and availability, other factors such as land acquisition, lodging of claims, land use planning, land distribution, resettlement programmes and infrastructure have all contributed to the broad spectrum of land reform and each of them has its own complexities (Vermeulen, 2009: 2).

Elite consensus on the principles that govern land reform and approaches to land reform rest on a “consensus that is grown out of compromise of previous compromises between opposing interest groups” (Gulbrandsen and Engelstand, 2005: 900). The transition to democracy as well as land reform in South Africa has been brought about by a “series of compromises connected to the establishment of democratic governance” (Gulbrandsen and Engelstand, 2005: 900). Compromises between political elites can be found in various spheres within the public and private spheres; for instance, foreign policy, the relationships between public and the private, and gender relations. In societies that that undergo continuous change, the actions of top political elites have a direct effect on governmental operations and institutions (Gulbrandsen and Engelstand, 2005: 900). Political elites must develop responsibility for the political system. The importance of elite attitudes to the continuance and development of land reform in South Africa is dependent on their ability to co-operate and compromise. If political elites attempt to develop or change land reform programmes independently, it may create mass-level reactions which may have the ability to abort or curtail the actions of the political elites.

1.4 Research objectives and research question

The objective of this research is to establish whether there is sufficient elite consensus on the issue of land reform policy in order to advance policy.

The research is guided by one overarching research question:

Is there elite consensus on the land debate in South Africa among the three largest political parties?

Two sets of indicators and their related secondary questions examine where there is sufficient elite consensus across the three largest political parties on land reform policy.

1. Indicator One: Procedural and institutional consensus: *Is there evidence of a shared understanding and tacit consensus about rules of the game and codes of political conduct with regards to land reform policy?*
 - a. Do elites accept one another as legitimate participants in the political process?
 - b. Do elites accept the political institutions they frequent (Parliament) as legitimate?
 - c. Do elites accept the legitimacy of the Constitutional order?
2. Indicator Two: Consensus on core values and agreement over vital policy matters: *Is there evidence of shared core values relating to land reform and related policy outcomes?*
 - a. Do elites share consensus on core values underpinning land reform?
 - b. Do elites equally regard land reform as a vital policy?
 - c. Do they share a common vision on the policy of land reform?

1.5 Methodology

1.5.1 Research design

The research design of this research is a case study. This case study is focused on opinions and values of the political elite across the ANC, the DA and the EFF on land reform in South Africa. Yin, (2002: 13) defines a case study as a “contemporary phenomenon within its real life context, especially when the boundaries between a phenomenon and context are not clear and the researcher has little control over the phenomenon and context”. Case study research involves qualitative methods and is adequate for evaluating, comparing, understanding and describing different factors of research problems (McCombes, 2020). A case study is a suitable research design for gaining “concrete knowledge about a specific subject” (McCombes, 2020). It allows the researcher “to explore key characteristics”, implications and meanings of the case (McCombes, 2020).

1.5.2 Theoretical indicators

The study draws on the theoretical literature on elite consensus to develop a set of indirect indicators to obtain evidence of the existence of ‘elite consensus’ or otherwise among South Africa’s political elites on the issue of land reform. Thus, the key concept in this study, elite consensus, is rendered measurable by developing a number of indirect indicators. The different indicators set out below will therefore be used to identify evidence of the key concept:

Procedural and institutional consensus: Evidence of a shared understanding and tacit consensus about rules of the game and codes of political conduct;

Consensus on core values and agreement over vital policy matters: Evidence of a shared core values relating to land reform and related policy outcomes

1.5.3 Data collection

The research will primarily be guided by secondary resources through a desktop study. The research uses government publications (white papers and legislative acts), speeches, policy documents, party manifestos, newspaper articles, academic journal articles, committee meeting minutes and parliamentary meetings.

The themes that will be examined include:

- The issue of the expropriation of land;
- The issue of whether or not compensation should be paid for land that is expropriated;
- The issue of whether or not the Constitution should be amended to allow for the expropriation of land without compensation.

1.5.4 Methodology

The qualitative research approach was chosen as the methodology because this approach strengthens the interpretation and understanding of the elite consensual unity and its impact on the land question in South Africa. Qualitative research looks at the bigger picture and starts with a search for understanding and analysing the entire entity being researched. Qualitative research is deemed suitable for this study because the main purpose of this study is to explore the views, attitudes, behaviour and opinions among the political elites across the ANC, the DA and the EFF. The findings will provide an analytical description of the similarities and differences in opinions and values of the South African elite regarding land reform in the country. This research will conclude by determining whether there is an adequate consensus among the political elite on land reform policies and programmes to make meaningful progress in the future.

1.6 Outline of chapters

Chapter 2: Literature review

This chapter provides a detailed explanation of who the political elite are and the role they play in the political environment; conceptualise elite consensus and its importance to democratic consolidation.

Chapter 3: Historical overview of land reform in South Africa.

This chapter will contain a discussion on the history of dispossession and land reform since the transition to democracy.

Chapter 4: Methodology

This chapter outlines the research methods. Moreover, it explains the research design, data collection and techniques used to analyse the data in this study.

Chapter 5: Analysis

This chapter will contain an evaluation of the different values and opinions of land reform across the three dominant political parties in South Africa. The chapter will use a topic/thematically analysis. Each political party will be analysed separately.

Chapter 6: Conclusion

This chapter will contain a comparison of the similarities and differences in opinions, values, and policies. Following that, the chapter will provide an overview of the results and findings of the research, as well as a conclusion of the main points.

Chapter 2: Literature review

2.1 Introduction

This chapter provides a detailed explanation of the theoretical setting, to lay the foundation for the rest of the study. The aim is to connect political culture, political elites, and elite consensual unity to land reform and transformation in South Africa. The first objective of the chapter is to explain the concept of ‘political elites’ and their role in the political system. The chapter will then conceptualise ‘elite consensus’, its importance for democratic consolidation and how theorists conceptualise its existence.

2.2 Political culture

Political culture can be described as the “set of sentiments, beliefs and attitudes that give meaning to the political process within a country and which provide the fundamental rules and assumptions that govern political behaviour in the political” system (Swedlow, 2013: 626). According to Almond and Verba (1963: 29), political culture offers a powerful approach to the day-to-day political events that take place within a political system by examining the underlying psychological influences that essentially shape most of everyday life. Political culture describes the way in which citizens are positioned towards the fundamental principles of their political system (Almond and Verba, 1963: 29). In other words, political culture can be defined as the overall distribution of citizens’ orientations towards the political system, i.e. their attitudes, feelings, behaviours and thoughts towards the political system (Almond and Verba, 1963, 30). Each “political system is embedded in a particular set of orientations to political operations” and this set of orientations is referred to as political culture (Almond and Verba, 1963: 30).

Political culture is the outcome of a “collective history” of the masses and political actors within the political system; rooted in their interests, behaviours and values (Almond and Verba, 1963: 398). Political culture consists of an elite subculture and a mass subculture. Almond and Verba (1963: 398) found that the values and actions of the political elite – elected representatives, political leaders – shape the political culture of the masses and have an impact on the approaches to governance and the ways in which the masses respond to the outcomes of governance (Welch, 2013: 4). In other words, the “political culture of the key political actors has a great impact on the political system and the processes of governance” (Elazar, 1972: 25). Baba (2015:117) argues that political culture is the main driver behind the political elite’s approaches to governance. Governance is “strongly influenced by the values that have been attached to governance” processes and the political elite's understanding of access to power within the political system (Baba, 2015: 118). Moreover, by “understanding the

nature of the relationship between” the political culture and the political system’s performance, we are able to determine which political changes may occur (Kavanagh, 1972: 13). This is especially important to political scientists that are trying to identify conditions for a stable democracy (Kavanagh, 1972: 13). Therefore, understanding the political culture of political elites enhances political scientists’ abilities to describe the interactions between the political system and its culture (Elazar, 1972: 25).

2.3 Elite political culture

2.3.1 Conceptualising political elites

Political elites are “institutionally distinct” and “politically diverse” groups of leaders (Gulbrandsen and Engelstad, 2005: 899). Putnam (1976: 651), loosely defines the political elite as those who are ranked at the top of the involvement, dimensions of interest and the influence they have in politics within a given society. The term relates only to those who rule hold political power. Political elites have the authority to guide and direct the regime, even if the main objective of the regime is to have all “its members play an active role in the decision-making process” (Blondel and Muller-Rommel, 2007: 820). Furthermore, it has been argued that political elites should be autonomous in exercising political power. The notion of elites put forward by Gaetano Mosca claims that all societies are “divided into two groups”; namely, a minority who rules and masses that are ruled (Mosca, 1939: 50). The organisational foundation of any elite group is the basis upon which political elites have the capacity to rule (Mosca, 1939: 52). Pareto focuses closely on government institutions as the centre of elite influence and power. Thus, political elites are directly linked to the instruments and environment through which political power functions and are seen as active rather than passive actors within it (Pareto, 1935). In other words, the legitimate relationship political elites have to government institutions enables their political power, “within constitutional and institutional constraints, to make the most important political decisions” (Francis, 2011: 11).

Robert Dahl (1961) was the first political scientist to link political power to questions of political participation and legitimacy. Political elites are separated into leaders and sub-leaders. Sub-leaders are specialised experts who organise the day-to-day activities of governments. All recruitments are open to any individual that is well-educated, has prestige, an income or an occupation, may belong to the political elite. Therefore, the political elite in contemporary societies is composed of different groups of individuals from diverse socio-demographic backgrounds and professional positions. “Majority of these individuals are highly specialised and politically influential in single policy sectors” (Blondel and Muller-Rommel, 2007: 821).

The characteristics of the political elite vary remarkably from one political system to the next. However, there are two characteristics all political elites share. First, the “social composition” of the political elite is significantly smaller than the masses in numbers. Secondly, the political elite are considerably more powerful than the masses. Furthermore, there are four distinct ways in which political elites differ tremendously from one another. The first distinction is between political elites and other elites. The political elite are usually distinct from the socio-economic elites (Blondel and Muller-Rommel, 2007: 824).

Secondly, there are differences within the political elites. In political systems where the political elite are established around one political party, the political elite are usually unified. In communist countries such as the former Soviet Union or Eastern Europe, the political party is in control and the leader of that party appoints members of government, members of parliament and members of key positions for local and regional levels of government (Steen, 1997: 34). This is the case in single-party systems and military regimes. In democratic regimes, a pluralistic party system exists where each political party is autonomous from the other. Here, political elites are divided horizontally. Vertically, differentiation occurs at three segments: 1) the party and party elites; 2) members of parliament, and 3) the government (Steen, 1997: 34). This differentiation exists even though parties, governments and legislatures are naturally linked together (Steen, 1997: 34). Thirdly, there are different patterns of recruitment. In democratic regimes, there is consistently freedom and, in some cases, full autonomy in recruiting political elites. Additionally, the power to recruit members of the political elite may be transferred to levels below central government, while this is not the case in authoritarian regimes (Laurentiu, 2004).

The attitudes, beliefs and values of political elites are not merely based on a wide range of expertise and information but are “highly structured ideologies” that are tied to a continuous commitment to democracy and democratic principles (Peffley and Rohrschneider, 2009: 65). Peffley and Rohrschneider argued that “political elites are the carriers of the democratic creed, who protect the democratic order from an unsophisticated and often undemocratic public” (2009: 65). Elite communication is considerably facilitated because dependence on a common ideology makes provision for an efficient and powerful heuristic for making sense of the political environment. Political elite “discourse helps structure political” debates so that the masses can adopt elite ideas of “what goes on with what”, even if they do not know why it is happening (Peffley and Rohrschneider, 2009: 66). Moreover, if a consensus exists among political elites about democratic values and practices, these values and practices are likely to be transferred to the masses, or at least those who are more politically involved (McClosky, 1964: 89).

Political elites are politically diverse groups of leaders. This means governments and political parties are unique in terms of their political beliefs, religions, socio-economic status and gender. The characteristics of each political elite vary from individual to individual, as well as in accordance to the political party each individual has affiliated themselves with. Political elites within one political party are usually unified in their ideological (values) issues around specific policy issues. However, political elites from different political parties may not have unified ideological values. For instance, in the South African context, the political elites within the EFF agree that land should be expropriated without compensation. The DA disagree with this stance and argues that the expropriation of land without compensation would be an unconstitutional act. However, both political parties are tied to a continuous commitment to the South African democracy and democratic principles. While they have different ideological stances on the land question, all political elites are unified in upholding South Africa's democracy because none of these political elites have challenged the political democracy as it stands. Political elites form an essential part of this study.

2.3.2 Conceptualising elite political culture

Elite political culture can be characterised as the patterns of behaviour, values and mindsets of those who directly affect “political outcomes” within a country (Seiyefa, 2017: 106). Elite political culture thus refers to the values, attitudes and opinions political elites hold about their political system. Scholarly work on elite political culture attempts to explain how the values, attitudes and opinions of these elites translate into political behaviour. Woshinsky (1995: 19) declared that elite political culture is the predispositions political elites (i.e. political leaders, elected representatives) have about the political system, how it works, and day-to-day principles and commitments to which they adhere. Thus, “the foundation of elite political culture is the shared” values and opinions among political elites (Woshinsky, 1995: 19).

What factors shape elite political culture? Most analyses would argue that the way in which elites have been socialised is an important source of their attitudes and beliefs (McClosky, 1964: 90). Political elites are exposed to the political environment and its operating procedures and develop values and behaviour that create the basis of the institutional framework. Additionally, political elites are disproportionately exposed to the standards of a regime and embody regime norms rather than the masses (McClosky, 1964: 90, Putnam, 1976: 4). Moreover, political elites are “strategic actors” (Peffley and Rohrschneider, 2009: 67). They take into account the short-term performance of the regime and the personal benefits they could acquire from certain political institutions. Therefore, it is not only the long-term socialisation of these elites that needs to be taken into account but also the

“short-term self-interest that should predict their political belief systems” and whether or not they will act as protectors of the democratic creed (Peffley and Rohrschneider, 2009: 67).

The behaviour of the political elite influence and shape broader political culture and mass citizen responses to politics (Seiyefa, 2017: 107). Inglehart argues that “cultural values depend on different value systems” that have been developed by the various political elites involved in the political system (Inglehart, 2000: 271). Furthermore, Camp (2001: 12) claims that “the values of the political elite in relation to governance and authoritative power are translated into mass views of state power and their assessments of the political elites’ performance” in government. However, various groups of elites can also hold quite distinct ideological opinions and values which can also, in turn, shape the political, social and economic landscape of a country (Woshinsky, 1995: 19).

Elite political culture has a set of expectations and norms that are governed by formal codes of conduct and rules. According to Pye (1965: 7) political “elites will behave in a way that fulfils the expectations of the masses”, but will also act in a vigilant manner, calculating their behaviour on what they should do as representatives of the masses, and what may occur if they do not behave in a normative manner. Culture is deeply embedded in political structures, political systems and more specifically, political elites. In this regard, political culture is seen as normative because it guides how political elites should behave (Summerlee, 2011: 7).

Elite political culture refers to how political elites behave, their ideological values and opinions about the political system. The basis of elite political culture is shared values among the political elites about the political system. One can argue that the basis of South Africa’s elite political culture that has been deeply embedded into the country’s political systems and structures is democracy. Democratic structures are the foundation of South Africa’s political system, how it works and the day-to-day principles to which the political elites adhere to.

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2.3.3 Elites and democratic consolidation

Mutual consensus, compromise and accommodation between political elites are seen “as a prerequisite for the maintenance and stability of” democratic regimes (Gulbrandsen and Engelstad,

2005: 899). Elite political culture influences the performance, functioning and structure of the most important “political institutions which, in turn, affect the process of democratic consolidation in a country” (Gulbrandsen and Engelstad, 2005: 899). Therefore, political elites play an important role in the maintenance and development (or breakdown) of a democracy.

The likelihood that a country will reach democratic consolidation is dependent on the “beliefs, values and attitudes of political elites” who affect the performance of democratic political institutions (Benavides, 2011: 20). Benavides argued that the democratic consolidation of a country and the future of a country’s democracy are dependent on political elites and not the preferences of the masses in developing countries (2011: 17). Benavides claimed that “democratic consolidation is the dependent variable which will be a function of elite political culture (the independent variable)” (2011: 19). Therefore, the likelihood that a country will reach democratic consolidation depends on how the “values, attitudes and beliefs of political elites may affect the performance of the regime towards the institutional” composition that may reach the point of being a liberal democracy (Schedler, 1998: 2).

The significance of political elites for consolidation is their ability to strike compromises to reach a consensus about how to preserve the democratic regime. Here, elite communication is greatly encouraged. There is a dependency on common ideologies that provide an efficient and powerful way of understanding the complexities of the policy process and the political system as a whole (Peffley and Rohrschneider, 2009: 66). “Elite discourse thus helps to structure political debates so that publics can adopt elite packages of ideas – to know “what goes with what” even if they do not know why” (Peffley and Rohrschneider, 2009: 66).

Elite consensus has also been shown to be important to the democratic consolidation process in a country because it offers legitimacy to opposing actors to reach an agreement on what is best for the entire political system (Diamond, 1999: 173). It is clear that it becomes more difficult to reach a consensus when many political elites are involved in decision-making processes. However, no scholar has taken the position that elite consensus is absolute. On the contrary, there is acknowledgment of the unevenness of their support for democratic values and beliefs (Sniderman, Fletcher, Russel, Tetlock and Gaines, 1991: 350). The more politically involved political elites become, the more they share a consensus about various democratic norms and values, have a greater understanding of these norms and values and are more committed to embedding them into the political system (Sniderman, Fletcher, Russel, Tetlock and Gaines, 1991: 351). Elite consensus is part of a complex and continuous political process.

A “consensually unified elite” produces stable democratic regimes that could advance into modern democracies (Higley and Burton, 1989: 17). Thus, stable democratic regimes are “heavily dependent on the consensual unity of political elites (1989: 17). And as argued above, if elite consensus exists among political elites on supporting democratic values, policies and behaviours, these values are more likely to be transferred and embedded among the masses (Peffley and Rohrschneider, 2009: 66). Elite consensus helps embed democratic values to the masses.

Political elites hold political power, and because of this, have the ability to overthrow a democracy if their ideological values and opinions about the political system change. Therefore, elite political culture directly influences the functioning and performance of a political system. In turn, political elites have the responsibility to maintain and develop a democracy. If political elites do not share the same values about the rules of the game and codes of conduct of a democratic system, this could lead to a democratic breakdown. Reaching an elite consensus on democratic values has proved to be difficult. However, the more politically involved elites become in democratic processes, the more committed they become to upholding democratic values. In accordance to what is mentioned above, it can be argued that South African political elites can be considered consensually unified in terms of the democratic rules of the game stipulated in the Constitution as none of these political parties have attempted to challenge it. If political elites in South Africa had made any attempt to challenge the democratic rules of the game, as they challenge one another during decision making and policy processes, these political elites would be considered disunified. This has the ability to lead to a democratic breakdown and cause the regression to an authoritarian regime. However, South African elites have proved to be committed to upholding the South African democracy.

2.3.4 Detecting elite consensus in democratic societies

It is clear from the literature review that there are no widely established measures or indicators for detecting ‘elite consensus’. Higley and Burton (1989: 18) lament the fact that the concept of “disunified and consensually unified national elites’ are poorly defined”. And only a few scholars have engaged in serious discussion about the measurement parameters of the concept. As Baylis asks (2012) “How much agreement does consensus require? Are there reliable empirical indicators for measuring elite consensus levels?” Nevertheless, a large body of work shows that scholars still attempt to establish whether elite consensus exists across vastly different country contexts. As such, we can draw on these case studies, based in the theoretical literature, to identify a common set of conceptual indicators for this case study to proceed to obtain accurate evidence in the South African case. Thus, this subsection reviews the theoretical and conceptual literature that guides the detection of indicators as outlined in chapter 4 (Methods).

Consensually unified political elite members have a united organisational integration and value and belief consensus; no single political elite group dominates, and the majority of the political elite members have access to central decision-making processes. These elites may oppose one another on an ideological level but agree on the “rules of the game and have confidence in the legitimacy of the political institutions” (Higley and Gunther, 1992: 11). Elites that are ideologically unified are centralised in a dominant elite group; political elites do not manifest extensive disagreement because policies are constructed by the political leaders (Higley and Gunther, 1992: 11).

Similarly, according to Higley and Burton (1989), elites are required to share a procedural “consensus and agreement on the rules of the game”. Consensus is not necessarily subject to shared fundamental values or policy goals. More specifically, they provide useful conceptual distinctions between the differences between consensually unified and disunified elites. They argue that elites can be considered consensually unified when its members:

- Share a large consensus about rules and codes of political conduct amounting to ‘a restrained partisanship’, and
- Participate in a more or less comprehensively integrated structure of interaction that provides them with relatively reliable and effective access to each other and to the most central decision-makers (Higley and Burton, 1989).

This “combination of tacit consensus on the rules of the game and comprehensive integration” allows political elite members to view decision-making outcomes as a ‘positive sum’ rather than zero-sum or “politics as war” game (Higley and Burton 1989: 19). With agreement on the rules of the game and decision-making access assured, diverse elite members accept the decisions made that they do not necessarily like because they know their voices will be heard in relation to other issues they consider important. For this reason, elites who have opposing ideologies and “policy positions refrain from pushing their own agenda” and differences to the point of violence.

Thus, consensus is “the relative agreement among elites on the formal and informal rules and codes of political conduct and on the legitimacy of existing political institutions” (Higley and Gunther, 1992: 10).

There is also a general acceptance among political elites on the basic goals of public policy and the rules of the game (Herson and Hofstetter, 1975: 1010). It is a structure of agreements that constitutes the foundation of a regime’s legitimacy and political stability (Herson and Hofstetter, 1975: 1010).

Political elites are considered consensually unified when most of its members share a consensus about the codes of conduct, rules of the political system and policies that are to be implemented; resulting

in prejudice in favour of a certain cause for the regime (Higley and Burton, 1989: 19). Moreover, political elites can also be considered consensually unified when their members participate in a systematically integrated composition that provides effective and reliable access to one another; as well as central decision-making (Higley and Burton, 1989: 19). For instance, caucus meetings where members of respective political party members nominate candidates for office, elect delegates, stipulate party agreements and make policy decisions within the political party. In democratic countries, members of parliament from different political parties come together to exercise their individual and collective initiatives to advance their interests in oversight and the central decision-making processes. It is important that political elites respect the opposition's views. The involvement of political elites requires debates, negotiations, discussions and give and take compromises. These factors are essential to democratic governance (Herson and Hofstetter, 1975: 1012).

With an agreement on the decision-making processes and the rules of the game, members of the political elite accept the decisions made in parliament, even if they do not necessarily agree with the decisions that have been made because it is what is best for the political system. The reason for this is because they might find success in pushing their own agenda on other pressing societal issues that are of interest to them. Political elites play an important role in the political system and have the capability to change political outcomes through their actions and opinions (Morgan, 2013: 4). It has been argued that once political elites are able to come to a consensus and integrate their orientations, other factions of governments will not occur, such as authoritarian regression (Prothro and Grigg, 1960, 279; Higley and Burton, 1989: 19).

Baylis (2012: 91) critiques Higley and Gunther's argument and examines the issue of how much agreement elite consensus requires. Consensus suggests that there is a broad agreement among political elites, but how much agreement is needed among the political elites on policy issues? Baylis (2012) questions whether sufficient elite consensus is evident when elites share "a procedural consensus and agreement on the rules of the game" and not necessarily agreement on "substantive policy goals or fundamental values". That consensus will be "mostly tacit".

Baylis critiques this evidential base of elite consensus. He argues that the extent to which procedural or institutional consensus (read: rules of the game) can be sustained in the absence of "agreement on substantive matters remains questionable"; elites experiencing "repeated defeats on what they see as vital policy matters or core values are unlikely to continue to acquiesce easily in the mechanisms that legitimated those defeats" (Baylis, 2012). He develops his argument further by pointing to the need to observe evidence of elite attitudes and behaviour towards each other and the institutions and constitutional frameworks within which they operate. As he states,

A useful approach is to examine the attitudes of a range of actors towards fundamental political, social and economic institutions and towards one another. To what extent do rival elites accept the institutions as legitimate, or at least refrain from challenging them? To what extent do such elites accept one another as legitimate participants in the political process?

He specifically points to the “level of disagreement among elites over the legitimacy of the political institutions” and the constitutional order in countries like Poland and Hungary (Baylis, 2012).

He further argues that it is important that there is some agreement among political elites from various political parties on very discordant policy issues. The reason for this is that during parliamentary procedures, discussions are held on policy issues and a vote is taken. In order for a motion or an amendment to be implemented, there needs to be a majority vote (Baylis, 2012: 92). Most decisions that are made in parliament are based on the majority rule principle. It is required that more than half of the members of parliament who have casted their vote to agree in order to make a decision on the issues and solutions being voted on.

Conversely, elites can be considered disunified when their members:

- Share few or no understandings about the properties of political conduct, and
- Engage in only limited and sporadic interactions across factional and sectoral boundaries (Higley and Burton, 1989: 20).

In other words, disunified elites have “minimal integration – which is the inclusiveness of informal and formal networks of influence and communication among various political elite groups – and value consensus” (Morgan, 2013: 7). As a result, the legitimacy of existing political institutions is stunted and the struggle for political dominance is often violent. Political elites distrust each other when it comes to making policy decisions and this, in turn, makes the political environment unstable (Morgan, 2013: 8). The main consequence of a disunified political elite is democratic instability.

If political “elites remain disunified, political regimes” are considered unstable, a notion that makes democratic transitions and “breakdowns merely a temporary oscillation in the forms that unstable regimes take” (Higley and Burton, 1989: 17).

There are no widely established measures or indicators for evaluating elite consensus. However, this study has drawn on Higley and Burton (1989) to guide the detection of indicators to establish the elite consensus among the South African elites. Higley and Burton (1989) have established that political elites are considered ‘consensually unified’ when they share a large consensus about rules of game and codes of conduct of a political system. Moreover, political elites are considered consensually unified if they participate in somewhat comprehensively integrated central decision-making. Majority of South Africa’s political elites have access to central decision-making processes. Additionally,

South Africa's political elites are ideologically unified as they share procedural consensus on the rules of the game and the South African democracy as a whole. These sentiments are all stated in each political parties' manifesto, that their first obligation as political leaders are to uphold the values of the South African democracy (African National Congress, 2019; Democratic Alliance, 2019 and Economic Freedom Fighters, 2019). On account of this, one could argue that South African political elites are consensually unified as majority of the political elite have an understanding of the properties of political conduct and are comprehensively engaged in central decision-making.

2.4 Elite Research in South Africa

Kotze and Du Toit have examined "the extent to which the South African society conforms to the features of a divided society by reporting on a 1992 survey of the attitudes of elites" (1995: 28). The data Kotze and Du Toit have presented states how elites have viewed the civic structures that have "served as their own support bases and those of their opponents and how they view the major public institutions of the state and regime" (1995: 28). In the literature, it is argued that disunified elites make significant contributions to the failure/success of the process of democratization. Political elites play an important role in democratic transitions. Therefore, it has been agreed upon that a stable democracy is possible if there is a high degree of consensus among the political elite on the rules of the game (Kotze and Du Toit, 1995: 34).

In South Africa, there is an overlap in the distribution of power among individuals and organisations (Kotze and Du Toit, 1995: 34). Individuals who possess influence and power occupy the "highest positions in the most important sectors of South Africa's society" (Kotze and Du Toit, 1995: 36). 2, 282 individuals were selected for the study. During the apartheid era, the apartheid regime was a divided society. A civil society had not been in place yet during the transition. Civic bodies were "strongly associated with partisan political formations that engaged with one another in conflicts of highly uncivil nature" (Kotze and Du Toit, 1995: 44). These divisions were caused by race, cultural attributes and language. However, since the transition to democracy, Kotze and Du Toit (1995: 46) concluded that in relation to the various attitudes analysed in their study, "there is a civil society in South Africa that serves as the common ground for democratic consensus among the elites on the rules of the democratic game. The consolidation of South Africa's democracy required a shared foundation of "political loyalty" (Kotze and Du Toit, 1995: 46). Kotze and Du Toit found that new rulers of the South African democracy understand that the regime can be used to ensure consolidation occurs (1995: 46).

It has been found that South African elites are willing to "extend their political rights to their political opponents, which indicates an increase in political tolerance" among elites (Garcia-Rivero, Kotze and

Du Toit, 2002: 176). Political tolerance is an importance phenomenon of democratic politics. Without political tolerance, regime legitimacy is jeopardized. Without political tolerance, political opponents are impeded from running for office. If no oppositions are allowed, authoritarian regimes may arise (Garcia-Rivero, Kotze and Du Toit, 2002: 171). However, those elites that are willing to advance their political rights to political opponents in South Africa, do not perceive governmental institutions as executing its operations correctly (Garcia-Rivero, Kotze and Du Toit, 2002: 176).

It can be argued that South African elites understand the importance of political tolerance to uphold regime legitimacy and to allow free and fair elections, which is an important aspect of any democracy. Moreover, there is a common ground for consensus on the rules of the game and a shared foundation of “political loyalty” among elites.

2.5 Conclusion

Political elites are an essential part of this research topic. Political elite groups, i.e. political parties, each have a unique set of political beliefs on policy issues. For example, the EFF believes that all land should be state owned, while the ANC and DA do not agree with that view. However, the elite political culture of South African political elites, which refers to the ideological values and opinions political elites have towards the political system, are shared values about the South African democracy. Democratic structures and institutions are the basis the country’s political system. If political elites do not share the same values about the rules of the game and codes of conduct of a democratic system, these elites are considered disunified and this could lead a democratic breakdown. South African political elite seem to be committed to upholding the country’s democratic values.

The above discussion forms the theoretical base for rendering the key concept in this study, elite consensus, measurable. Chapter 3 develops a number of indirect indicators which are then applied in Chapter 5 to identify evidence of the key concept: elite consensus.

Chapter 3: Research Design and Methodology

3.1 Introduction

The following chapter provides an outline of the research methods that were followed in this thesis. The researcher explains the research design that was chosen for this study and why it was selected. Data collection instruments are described and the methods that were followed to complete this study are also included. Lastly, the researcher discusses the techniques used to analyse the data.

3.2 Research design: Single case study

The research design supports how the researcher has come to the research findings and conclusions (Sileyew, 2019). The research design is important because the researcher decides which research design is most appropriate in determining how information for the study will be obtained (Sileyew, 2019). This study will make use of a single case study.

Yin, (2002: 13) defines a case study as a “contemporary phenomenon within its real-life context, especially when the boundaries between a phenomenon and context are not clear and the researcher has little control over the phenomenon and context”. According to Yin, case study research is a legitimate method of research within the social science phenomena (2002: 13). The most central assumption about Yin’s definition is that other research strategies such as experiments and surveys are not capable of providing deep insight into a specific case that is of interest to the researcher (Yin, 2002: 13). Therefore, what is needed is a “comprehensive research strategy”, namely: a case study (Yin, 2002: 14). Yin argues that a case study is an empirical investigation that inquires a case or cases by adhering to the definition above by addressing the “why” or “how” questions regarding the situation or fact that is at hand. Case study design is “particularly instrumental for program evaluations” (Yazan, 2015: 138). The rest of Yin’s definition draws awareness to data collection and analysis in accordance to the circumstances being examined: in order to analyse a distinct phenomenon that includes “more variables of interest than data points,” case studies draw from multiple lines of evidence for triangulating bases and assists itself by “prior development of theoretical propositions to guide data collection and analysis” (Yin, 2002: 14). Yin’s approach is conscientious in relation to consistency and cohesion among design phases and components of case study research. When making decisions during the “research process, researchers should be able to make provision for the logic behind it in adherence to the theoretical perspectives and the characteristics” of the case study (Yazan, 2015: 139).

South Africa's colonial and apartheid legacy has left the majority of the country's citizens without the opportunity to own land. Land reform and the rule of law are complex phenomena that are set in a complex political system. These issues have a direct impact on the elite consensual unity within the country, as well as establishing a stable democratic regime. The outcome of this research is to promote further discussion on the need for elite consensus land reform initiatives in the South African region to promote a stable democratic regime. A case study approach was chosen for this research because case study research is an empirical inquiry that examines a "phenomenon within its real-life context" (Yin, 2002: 13). Land reform is a very real issue in South Africa. Moreover, case studies are based on critical analysis of an individual or group to investigate the "causes of underlying principles" (Yin, 2002: 13). A case study approach will provide the means to describe, explain and analyse land reform and elite consensual unity in South Africa.

The advantages of using case study include:

- Provides comprehensive qualitative information;
- Provides comprehension for further research on land reform and elite consensual unity in South Africa;
- Case study research can be done remotely. Therefore, researchers do not need to be present at a specific facility to conduct research. This is especially important in relation to this study because Members of Parliament are not easily accessed. Desktop research provides sufficient information for empirical analysis.

A case study research design provides a detailed study of a specific phenomenon, such as a group, organisation, event or place (Baxter and Jack, 2010: 546). Case studies are most commonly used in social science research. A case study research design has been used for this study because case studies are useful for understanding, comparing and evaluating various aspects of a research problem (Baxter and Jack, 2010: 547). The main focus of this thesis is to evaluate and compare the similarities and differences in ideological (values) issues among the political elites within the ANC, the DA and the EFF on land reform. Therefore, a case study research has allowed the researcher to explore the key characteristics and implications of this research problem (Baxter and Jack, 2010: 547). It has allowed for in-depth investigation of the topic at hand. A case study research design has proven to be comprehensive as it has provided space and time to build a detailed understanding of the topic. Moreover, as it has captured a range of perspectives from each political party. Therefore, it has reduced biases. It has given the opportunity to gain a deeper understanding of each subject.

3.3 Units of analysis

The units of analysis are the primary entity being studied in a research project. The unit of analysis could be any of the following entities: groups, individuals, geographical units, artefacts and social interactions. According to Dolma “the unit of analysis can simply be defined as the entity being analysed in a scientific research paper” (2010: 169). Determining the unit of analysis has a fundamental role to play in the research process. The unit of analysis in this study is elite consensual unity among political elites across the African National Congress (ANC), the Democratic Alliance (DA), and the Economic Freedom Fighters (EFF) on the land question. The components that will be examined are: 1) the issue of expropriation, 2) the issue of compensation, and 3) constitutional amendments. In this study, in-depth text analysis is used to investigate this data on components mentioned above and to understand the conditions and impact elite consensual unity or lack thereof has on the future of land reform in South Africa, as well as democratic stability.

3.4 Research methodology and data collection methods

Research methodology is established by the nature of the research question and the primary entities being examined. Therefore, the research methodology used in any given research should be seen as a mechanism to answer the research question (Denzin and Lincoln, 2005: 3). According to Rajasekar, Philominathan and Chinnathambi, “research methodology is a systematic way to solve a problem (2013: 5). It is a way in which research is carried out. In other words, it is the course of action by which a researcher goes about predicting, describing and explaining a phenomena” (Rajasekar, Philominathan and Chinnathambi, 2013: 5). The main aim of research methodology is to “give the work plan of the research” (Rajasekar, Philominathan and Chinnathambi, 2013: 5).

Qualitative research answers how, what and why “questions that require collection of qualitative rather than quantitative data” (Tavakol and Sanders, 2014: 748). Once the data has been collected, the researcher analyses the research questions that provide additional information on a specific theory. This kind of research does not need to include a hypothesis; it determines similarities and differences between the primary entities being studied and/or an explanation of the phenomenon (Tavakol and Sanders, 2014: 748). Analysing qualitative data includes attempting to understand and interpret the primary entities in a study (Hooper, 1992: 29). Analysing qualitative data is done by organising the data collected to increase the researchers understanding in order to present the findings (Hooper, 1992: 29). The presentation of the findings refers to transcripts and notes as raw data that needs to be transformed into clarified data for better examination by the researcher (Hooper, 1992: 30).

Qualitative research allows the researcher to develop and interpret a comprehensive picture of the phenomenon in question. Qualitative research requires research questions. Research questions embrace a wide range of topics. According to Haradhan, “in qualitative research there is a close

relation between the researcher's goals and the researcher's theoretical frames. The theoretical frames consist of all the previous researches, findings or theories; existing on the topics to be studied that are mobilized by the researcher" (2018: 29). When using qualitative research methods, it is important that the researcher uses the fundamental principles of research design. For instance, it is important to link the research question to the theoretical framework and "methodological approaches, bearing in mind the problems of data collection and analysis" as coherent and being directly about the main focus of the research (Haradhan, 2018: 29).

The qualitative research approach was chosen as the methodology for this study because this approach strengthens the interpretation and understanding of the elite consensual unity and its impact on the land question in South Africa. Qualitative research looks at the bigger picture and starts with a search for understanding and analysing the entire entity being researched. It focuses on understanding specific circumstances rather than making assumptions or predictions about the setting. Qualitative research is deemed suitable for this study because the main purpose of this study is to explore the views, attitudes, behaviour and opinions among the political elites across the ANC, the DA and the EFF. Secondary data was collected for analysis in an attempt to answer the research question. Secondary data allows the researcher to build on existing information, which guides better results. Secondary data collected for this study was obtained without fieldwork. Published reports, manifestos and policy documents were collected from each political party via their websites and is deemed sufficient for analysis and the answering of the research question. Moreover, media statements, caucus meetings and parliamentary meetings were accessed via the Parliamentary Monitoring Group (PMG). Published interviews and reports were collected from YouTube via the Parliament of the Republic of South Africa, My Africa and other news channels.

3.5 Data analysis

The following section will explain how the data will be analysed, by referring to some of the main texts covered in the theoretical chapter of this thesis. Concepts are by definition abstract. And they are not directly observable. It is the task of a research design to translate a study's key concepts into "indicators that can be detected and evidence that can be encountered in the real world" (Toshkov, 2018: 227). Operationalisation is still necessary and relevant for research that eschews the language of variables and measurement, such as in-depth single case studies (this study). In this qualitative research mode, "it is more appropriate to think of operationalisation as linking concepts with pieces of empirical evidence that will be searched for, and collected in the process of research" (Toshkov, 2018: 227). Thus, "in the process of research design, all concepts relevant to the project must be conceptualised" and then operationalised (Mouton, 1996, 119). In other words, as Mouton reminds

us, irrespective of whether the approach is qualitative or quantitative, the concept must be rendered measurable (Mouton 1996: 119).

How do we ‘operationalise’ a concept for a qualitative study? The most common approach is to develop indirect measures for the theoretical concept under study (Mouton 1996: 119). Mouton (1996) suggests starting with a review of the existing literature. This provides researchers with not only theoretical formulations and definitions of key concepts, but importantly provides guidelines and suggestions on research design. In other words, a literature review acts as a methodological resource. Researchers draw from the theory the different design and methods used to study the key concept, and more specifically, the different indicators used to identify evidence of their key concept (elite consensus). Mouton reminds us that qualitative researchers link their theoretical components to the empirical world through the collection of behaviour specimens (Mouton, 1996: 130). In other words, they operationalise their concepts through a careful analysis of their evidence. In doing so, we link key concepts to actual phenomena.

This study therefore turns to the established theoretical literature on elite consensus to develop a set of indirect indicators to obtain evidence of the existence of ‘elite consensus’ or otherwise among South Africa’s political elites on the issue of land reform.

Higley and Burton (1989) argue that political elites are required to share procedural consensus and agreement on the rules of the game. Consensus is not necessarily subject to shared fundamental values or policy goals. According to Higley and Burton (1989) political elites can be considered consensually unified when their members:

- Share a large consensus about rules and codes of political conduct amounting to ‘a restrained partisanship’, and
- Participate in a more or less comprehensively integrated structure of interaction that provides them with relatively reliable and effective access to each other and to the most central decision makers.

Elites can be considered disunified when their members:

- Share few or no understandings about the properties of political conduct, and
- Engage in only limited and sporadic interactions across factional and sectoral boundaries

Baylis (2012) states that elite consensual unity is evident when elites share “a procedural consensus and agreement on the rules of the game” but not necessarily agreement on substantive policy goals or fundamental values. That consensus will be “mostly tacit”. However, elites experiencing “repeated

defeats on what they see as vital policy matters or core values are unlikely to continue to acquiesce easily in the mechanisms that legitimated those defeats” (Baylis, 2012).

The different indicators set out below will therefore be used to identify evidence of the key concept:

1. *Procedural and institutional consensus*: evidence of a shared understanding and tacit consensus about rules of the game and codes of political conduct
 - a. Do elites accept one another as legitimate participants in the political process?
 - b. Do elites accept the political institutions they frequent (Parliament) as legitimate?
 - c. Do elites accept the legitimacy of the Constitutional order?
2. *Consensus on core values and agreement over vital policy matters*: evidence of a shared core values relating to land reform and related policy outcomes
 - a. Do elites share consensus on core values underpinning land reform?
 - b. Do elites equally regard land reform as a vital policy?
 - c. Do they share a common vision on the policy of land reform?

The researcher in this study analysed the media statements, reports, caucus meetings and policy documents of each political party separately. This was done to identify each party’s values, opinions and behaviours in relation to the land question in South Africa to determine whether South Africa’s elite can be considered consensually unified or disunified in relation to the indicators mentioned above. The components of land reform that were analysed were grouped in accordance to: 1) the issue of expropriation, 2) the issue of compensation and 3) constitutional amendments. First, the indicators were identified through reading and re-reading data notes, reflecting on what was read and organised into the patterns and themes of the study. Following that, once the data was collected, the researcher examined the data to identify the presence of procedural and institutional consensus and consensus on core values and agreement over vital policy matters. The presence of these indicators or lack thereof is represented in the documents collected for each respective political party.

3.6 Conclusion

This chapter has focused on the research design and methodology that is used in this thesis. A description of a single case study and qualitative research as a method for data collection and analysis was provided. Explanations of the indicators used in the study were also given. The following chapter explains the history of land reform in South Africa.

Chapter 4: Historical Overview of Land Reform in South Africa

4.1 Introduction

This chapter will contain a discussion on the history of dispossession of land during colonialism and apartheid and land reform policies following the transition to democracy. The discussion on colonisation, apartheid policies and current land reform have been included to depict the importance of land reform in South Africa. Moreover, it provides an insight as to how land reform policies have been transformed from colonial times to contemporary South Africa.

4.2 Colonisation

Land dispossession started in 1652 in the Cape of the Khoekhoe land through to the implementation of the racially discriminatory policies under apartheid (Drimie, 2003: 39). The indigenous people during that time did not ascribe to the concept of ownership of private property. Therefore, the settlers did not regard these individuals as having private property rights. Thus, the rudimentary ‘transfer’ of land involved acquiring the land by force, with and without formal agreements to stipulate the new boundaries that were established along with settler control (Claassens, 1991: 45). The British initially occupied the Cape Colony from 1795 to 1803, , and for the second time from 1806.

By the 1830s, the Boers had become dissatisfied with British colonialism which led to the Groot Trek. The Groot Trek was a migration of Dutch Settlers into and beyond the Cape Colony (Tong, 2003: 12). The Groot Trek was a reaction to the land shortages that had spread to the north and eastern areas of the Cape Colony. They established themselves on land that was already occupied by Africans. Europeans inhabited much of the land and small reserves were created for Africans. Most Africans lived as labourers on farms owned by whites. During this time, laws and policies were implemented that placed severe limitations on the private property rights of the blacks. The Boer Republic and the Orange Free State made it illegal for blacks to own any land, apart from exceptional situations (Lee, 2003: 6).

4.3 Apartheid policies

Apartheid legacy has left many citizens without the opportunity to own land. The Natives Land Act 27 of 1913 made it illegal for Africans to take possession of land except what was allocated to them, was first implemented in 1913 (Claassens, 1991: 48). The main purpose of the Natives Land Act was to create territorial segregation between black and white citizens. A provision of the Glen Grey Act 25 of 1894 was integrated into the Land Act that prohibited non-white citizens from owning or buying land outside the 7 percent that was allocated to them. This land constituted the area where non-whites

could own land. However, only 9.1 hectares of land was allocated and was not nearly sufficient for the scope of the non-white population (Vermeulen, 2009: 16). The same provisions were made for the homeland policies that were implemented in the fifties.

Non-whites could not access or own land outside the areas that were reserved for them unless they were employed as “labourers on white farms” (De Beer, 2006: 26). Land that was originally assigned for black citizens was not enough. In an attempt to increase the size of the area the Natives Trust and Land Act 8 of 1936 located more land to be given to the reserves. The Native (Urban) Areas Act 21 of 1923 and the Bantu (Urban Areas) Act 25 of 1945) established the basis for the “pass laws” system for non-whites in urban areas. Existing land occupation and ownership patterns were retained because these Acts excluded non-whites from owning any land outside the reserved areas (Tong, 2002: 53). The National Party (NP) came into power in 1948 with the promise of promoting racial segregation and a white supremacist regime. As Vermeulen states (2009: 18), racially discriminatory legislation was further implemented by the apartheid regime which created the extremely “skewed imbalances of economic prosperity and political power between white and black South Africans”. In 1950, the Group Areas Act 41 of 1950 was implemented.

The Group Areas Act defined unequal and divided residential areas for whites, coloureds, Indians and blacks. The Group Areas Act was promulgated in July 1950 and was implemented over the time span of several years. Whites, who made up approximately 13 percent of the population had access and owned 87 percent of the country’s land in comparison to the black population, who made up the majority of the population, who only had access to 13 percent of the land (Walker, 2007: 137). Each racial group’s political rights were limited to their reserved areas. The apartheid regime expropriated this land, with some compensation, known as ‘black spots’ and relocated these citizens to the homelands and reserves. By 1983, 247 black spot farms were forcefully removed and roughly 475 000 people were relocated to the reserves (Walker, 2007: 137).

The apartheid government implemented the Law on the Prevention of Illegal Squatting Act 52 of 1951 and the Bantu Laws Amendment Act 42 of 1964 to eradicate illegal squatting and to transform labour tenants into wage labourers as many black families were still residing on white farms as tenants (De Beer, 2006: 27). These policies and laws confined blacks to reserves and homelands as they were restrained from moving around freely in the country. Approximately 3.5 million people were forcefully removed and relocated to reserves under the extensive legislation that was implemented (De Beer, 2006: 27).

4.4 Negotiating land reform

During the final years of apartheid, there was increased international pressure on the government to transition to a democratic state. Land was seen as a central problem to be addressed because of the consistent dispossession of blacks' land and property rights while whites enjoyed political and economic privilege. The three main political parties that were involved in the negotiated transition to democracy included the African National Congress (ANC), the Liberal Party, the National Party (NP) and other non-governmental organisations concerned with the issue of land. Each political party promoted their own interests that they wanted integrated into the interim Constitution (Constitution of the Republic of South Africa Act 200 of 1993). Each political party had contrasting views and opinions of principles on land reform policies in the country. A consensus had to be reached.

The ANC argued for the expropriation of land in 1992 and prioritised land restitution above land reform mechanisms (Lahiff, 2007: 1580). The World Bank assisted the ANC in formulating the land reform scheme. This is important to take into consideration because the "ANC entered the transition without an analysis of the agrarian questions of agricultural restructuring that would go hand in hand with land redistribution and its impact on agricultural production" (Vermeulen, 2009: 21). In the proposal released by the World Bank in 1993 during the negotiation stages was a "grant-driven programme for distribution" where the government would encourage small farmers to obtain land through the 'willing-buyer, willing-seller' mechanism (Vermeulen, 2009: 21). The proposal stipulated that 30 percent of land should be transferred back to blacks within five years and would cost the government approximately R17.5 billion (Vermeulen, 2009: 21). A new aspect of land restitution was established when the interim Constitution acknowledged the right to have land transferred back to those it was taken from as a constitutional right (Vermeulen, 2009: 22). One of the main priorities for the NP was to protect property rights. The ANC considered this as an obstacle to land restitution. However, negotiations between the two parties came to a consensus that both land restitution and private property could be considered constitutional rights and that the one does not have to contradict the other (Vermeulen, 2009: 22).

Land reform initiatives and programmes rest on a "consensus grown out of negotiations and compromises between opposing" political parties and non-governmental institutions. These compromises were established between the leaders of the various parties involved, interest groups and movements during the democratic transition (Gulbrandsen and Engelstad, 2005: 899). In this regard, and in "accordance with elite theories, these compromises were elite compromises" and pacts to reach a consensus on what was deemed best for the new democratic government in South Africa (Gulbrandsen and Engelstad, 2005: 899). The significance of political elites during this period was their ability to achieve compromises to reach a stable consensus on the issue of land and what would be the best mechanisms to put in place to address the problem.

4.5 Land reform in democratic South Africa

The final Constitution Act 108 of 1996, which is correctly referred to simply as the Constitution of the Republic of South Africa, 1996 did not amend the underlying basis of land restitution and redistribution as stipulated in the interim Constitution. However, it extended the constitutional commitment to address the land issue (Walker, 2005: 816). Moreover, it forbids the “arbitrary deprivation of property”: the government is directly empowered to “expropriate land in the public interest”. This shows a more substantial land reform than was stipulated in the 1993 Constitution since the “nation’s commitment to land reform” is incorporated into the definition of “public interest” (Constitution of the Republic of South Africa, 1996).

Protection of private property rights are provided for in section 25 (1) of the Constitution which stipulates that no individual can be deprived of their land, “except in terms of law of general application and no law may permit arbitrary deprivation of property” (Constitution of the Republic of South Africa, 1996). However, in section 25 (8), it also stipulates that “no provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provision of section 36 (1)” which states that “the Bill of Rights may be limited only in terms of the general law application to the extent that the limitation is reasonable and justifiable in an open and democratic society” (Constitution of the Republic of South Africa, 1996).

In 1996, the ANC implemented the Growth, Employment and Redistribution (GEAR) Programme which included the “willing-buyer, willing-seller mechanism to address land reform” (Hall and Ntsebeza, 2007: 13). This mechanism is a market-led reform where land is bought from the owner (who is willing to sell their land) by the government (who is the willing buyer). Once the government (willing buyer) has bought the land from the owner (willing seller) the land would then be redistributed to the beneficiaries of land reform. This mechanism was implemented in order to maintain citizens’ confidence in land reform programmes; however, it “has proved to be difficult to implement” in South Africa (Hall, 2007: 103). In 1997, the White Paper on the South African Land Policy confirmed that the willing-buyer, willing -seller mechanism would be used to access land for redistribution to beneficiaries (Vermeulen, 2009: 24).

This is the constitutional framework against which the government’s land reform programmes and policies have been formulated since the late 1990s. Though the transition to democracy can be considered a success story, the same cannot be said about land reform initiatives. The government has not made significant progress in addressing land reform in the country after 25 years of

democracy. As a result of the lack of progress made over land reform, there is increasing tension and disagreement among the political elites in the African National Congress (ANC), the Democratic Alliance (DA) and the Economic Freedom Fighters (EFF) on how to address land-related policy issues and how to achieve the original reform targets.

The lack of agreement on how to achieve land reform among political elites could further hinder progress on land restitution and redistribution. Rosenbaum (1975: 27) has argued that a lack of agreement among political elites across different political parties could bring about tensions that are consequential for the political system. It is therefore important that South Africa's elites reach a stable agreement on the best way forward for land reform in South Africa. Less than 10% of white-owned land has been redistributed to land reform beneficiaries.

4.6 Current legislation on land reform

4.6.1 Constitutional framework

The Constitution of South Africa provides the framework for land reform, expropriation and the protection of property rights if "it is in the public interest" (Constitution of the Republic of South Africa, 1996). In order to redress the legacy of the dispossession of land during apartheid, the Constitution has included the following:

- A community or person dispossessed of their property after June 1913 due to the racially discriminatory practices and laws that were implemented by the apartheid government is entitled to either equitable compensation or restitution of the property.
- The government must ensure that legislative and other mechanisms are put in place, within its capacity, to ensure that beneficiaries of land reform have access to land on an equitable basis.
- A community or person whose tenure of land is legally insecure due to past discriminatory laws is entitled to tenure that is legally secure or to comparable redress (The Constitution of the Republic of South Africa, 1996).

Additionally, the government has implemented various segments of legislation to redress past inequality of the ownership of land. To name a few; the Deeds Registries Act 47 of 1937 makes provision for the administration and registration of land ownership; the Land Titles Adjustment Act 2 of 1995, that regulates the allocation of land where one or more persons claim ownership, but do not have legally secure title deeds for the property; the Restitution of Land Rights Act 22 of 1994, that was enacted to address the challenges of unemployment, inequality and poverty. The Act makes provision for restitution of land to a person or community that was dispossessed of their land after June 1913. The Land Reform (Labour Tenants) Act 3 of 1996, makes provision for the security of

tenure of labour tenants (Constitution of the Republic of South Africa, 1996). The Expropriation Act 63 of 1975, which provides the framework for the expropriation of property and land is most important to the study at hand.

4.6.2 The Expropriation Act

The Expropriation Act “provides for the expropriation of land and other property for public and certain other purposes; and to provide for matters connected therewith”. The main purpose of the Bill is to provide for the expropriation of land or property for the purpose of public interest or public purpose. Moreover, it provides for the compensation of just and equitable payment when land expropriation occurs.

The Expropriation Act is reflected in section 25 of the Constitution which guarantees property rights to landowners. Section 25 (1) of the Constitution stipulates that “no one may be deprived of property except in terms of law of general application and no law may permit arbitrary deprivation of property” (Constitution of the Republic of South Africa, 1996). Moreover, section 25 (2) of the Constitution makes it especially clear that property will only be expropriated for a public purpose or in the public interest. Before the government expropriates property, the expropriating authorities must set out to come to an agreement with the owner on just and equitable terms. Therefore, land will not just be expropriated. Property may only be expropriated only in terms of law of general application (Constitution of the Republic of South Africa, 1996). Section 25 (3) states that compensation provided when property is expropriated must be “just and equitable, reflecting an equitable balance between public interest and the interests of those affected, having regard to all relevant circumstances” which include: “a) current use of the property; b) the history of the acquisition and use of the property; c) the market value of the property; d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and e) the purpose of the expropriation” (The Constitution of the Republic of South Africa, 1996).

The circumstances under which land will be expropriated will have to be examined to decide how much compensation the state will pay. Compensation would vary depending on the circumstances examined. For instance, where property is not being used productively, or for property obtained during apartheid the government would pay the minimum compensation. Compensation varies drastically. One property may be expropriated for R1 000 while another may require that the government pay a much higher amount; based on the factors outlined above. A court will rule on any disputes between property owners and the expropriation authorities in relation to the compensation to be paid. In terms of “urgent expropriation”, the expropriating authorities have the right to use property temporarily, not exceeding a year, provided there no property owned by the state that can be

used during a disaster and the court has ordered “urgent expropriation” (Expropriation Act 63 of 1975).

4.6.3 White Paper on land policy

The framework for land reform was set out by the Department of Land Affairs (DLA) in April 1997. The government’s “land reform programme aims to achieve objectives of equity in terms of access to land and the ownership of land and efficiency in terms of improved” utilisation of transferred land (Department of Land Affairs, 1997: 14). These objectives are described in the White Paper: “The purpose of the land redistribution programme is to provide the poor with access to land for residential and productive uses, in order to improve their income and quality of life. The programme aims to assist the poor, labour tenants, farm workers, women, as well as emergent farmers. Redistributive land reform will be largely based on willing-buyer, willing-seller arrangements. Government will assist in the purchase of land but will in general not be the buyer or owner” (Department of Land Affairs, 1997: 38).

Land restitution, gives relief for certain groups of victims of land dispossession, was established to handle land claims and other land-related matters against the State, rather than against the previous or current owners. Provision is made for three wide-ranging categories of relief: restoring the land being claimed, granting alternative land to beneficiaries or payment of compensation. Restitution claims were submitted until 31 December 1998. 63 455 claims were lodged and the number of claims during the 2002 validation campaign were 79 687 (Ministry of Agricultural and Land Affairs, 2003: 12). The Commission on Restitution of Land Rights was established to handle the backlog of claims on rural and “prime agricultural land” (Binswanger-Mkhize, Bourguignon and van den Brink, 2009: 172). Until 2006, the government depended on “voluntary agreements with landowners to purchase privately owned land on behalf of the beneficiaries of land reform” (Binswanger-Mkhize, Bourguignon and van den Brink, 2009: 172). Moreover, substantial areas of state-owned land were restored. In 2003, an amendment was made to the Restitution Act stipulating that land could be expropriated by ministerial order. Expropriation orders began in January 2007. While there have been “success stories” in restitution, these have gone unmatched by the number of claims that have failed to produce benefits or merely collapsed (Binswanger-Mkhize, Bourguignon and van den Brink, 2009: 173).

Tenure reform refers to the strengthening and protection of individuals occupying privately owned land and State land (Department of Land Affairs, 1997: 15). This reform was established to ensure that the tenure rights of victims of past discrimination are secure. According to section 25 (6) of the Constitution, “A person or community whose tenure of land is legally insecure as a result of past

racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress”. This ensures that these people have legally enforced rights to land. Parliament passed a number of laws that provides security of tenure and addresses the needs of various categories of landowners (Rugege, 2004: 13). The “most significant ones are the Land Reform (Labour Tenants) Act 3 of 1996, which protects tenants and the Extension of Security of Tenure Act 62 of 1997”, that protects occupants of rural land with content from landowners (Rugege, 2004: 13).

Land redistribution seeks to address the imbalance of land ownership on a more extensive scale. The legal framework of land redistribution is set out in the Provision of Certain Land for Settlement Act 126 of 1993 which was amended in 1998 and is now named the Provision of Land and Assistance Act 58 of 2008. Land redistribution policy is based on the performance of the existing land market. Other mechanisms include expropriation of land. Land redistribution was implemented to enhance the obligation of the State to increase accessibility to land (Regege, 2004: 8). Prior to 2000, land redistribution policy was based on the allocation of the Settlement/Land Acquisition Grant (a grant where R16 000 was allocated to households that had an income of less than R15 00 per month) (Binswanger-Mkhize, Bourguignon and van den Brink, 2009: 176).

4.6.4 National Development Plan

The National Development Plan (NDP) is a document that specifies desired goals and the role each sector needs to play in acquiring those goals (South African Government, 2013). The NDP’s 2030 goal for land reform is that rural communities have better opportunities to participate in political, political and social life. Successful infrastructure development, job creation, land reform and poverty alleviation can assist rural communities to be better integrated into the economy.

The NDP identified six urgent policy imperatives for rural development and land reform, which are the focus for medium-term development to 2019:

- “Enhanced land administration and spatial planning for further development in rural areas;
- Agrarian amendment through sustainable land reform;
- Enhanced food security;
- Development of infrastructure, financial and technical support for smallholder farmers;
- Greater access to quality primary infrastructure and services in rural areas, especially in education, healthcare and public transport;
- An increase in sustainable rural enterprises and industries characterized by rural-urban linkages, increased investment in agri-processing, trade development and access to markets and financial services” (South African Government, 2013).

The NDP also states that land reform will unlock the prospective for an expanding, effective and employment-generating agricultural sector.

4.7 Conclusion

Indigenous South African's have been dispossessed of their land since the 1600's. Since then, laws and policies were implemented that have placed severe limitations on private property rights of black citizens. It was illegal for black citizens to own land the final years of apartheid. Land reform negotiations began due to increased international pressure on the apartheid government to transition to a democratic state. Land was seen as a central problem to be addressed because of the consistent dispossession of black citizens from their land. Each political party involved had their own contrasting views on the best way forward for land reform. However, consensus grew out of negotiations and compromises between opposing political parties. The importance of political elites during this period was their ability to achieve compromises, despite their contrasting ideological views, to reach the program to implement to address the land issue.

Since these land reform initiatives were implemented, government has not made significant process in addressing the land issue. Consequently, of the lack of progress made over land reform, there is an increase in disagreement among the political elites on how to address these issues. This lack of agreement among the elites has further hindered progress on land reform. If political elites cannot reach a stable agreement on land reform, land redistribution will be hindered even further. As it already stands, the first ad hoc committee established to assist with the drafting of the necessary amendments has collapsed as it was unable to complete its work within the given time frame. Current land reform policy has the ability to make sufficient land reform progress. However, the South African government has an implementation problem. This has also caused an increase in tension among political elites across the three political parties being studied in this study. It is clear that the ANC, the DA and the EFF have conflicting ideological views on what land reform policy would be best suited for South Africa.

The chapter above explores the history of land dispossession during colonialism and apartheid to understand the importance of land reform in the country. It has also provided acknowledgement of how land reform policies have changed in South Africa from colonialism to contemporary South Africa. The following chapter is the analysis chapter of the study.

Chapter 5: Analysis: Examining elite consensus across the ANC, DA and EFF

5.1 Introduction

The objective of this chapter is to examine positions and policies on land reform across the three largest political parties in South Africa. Current land reform approaches are a result of elite consensus grown out of previous compromises between opposing interest groups and political parties during the transition to democracy. However, there is a lack of agreement among political elites on how to effectively move forward with land reform. A lack of consensual unity over the fundamentals of land reform may hinder further land reform initiatives.

This chapter examines the three largest political parties' stances on the key central contentious issues pertaining to land reform such as the issue of expropriation without compensation and the need for constitutional amendments. In doing so, it applies the following guiding indicators to identify evidence of elite consensus on land reform:

1. *Consensus on core values and agreement over vital policy matters:* evidence of a shared core values relating to land reform and related policy outcomes
 - a. Do elites share consensus on core values underpinning land reform?
 - b. Do elites equally regard land reform as a vital policy?
 - c. Do they share a common vision on the policy of land reform?
2. *Procedural and institutional consensus:* evidence of a shared understanding and tacit consensus about rules of the game and codes of political conduct
 - a. Do elites accept one another as legitimate participants in the political process?
 - b. Do elites accept the political institutions they frequent (Parliament) as legitimate?
 - c. Do elites accept the legitimacy of the Constitutional order?

5.2 Consensus on shared core values and agreement relating to land reform and related policy outcomes

This section discusses each political parties' individual stance on the general issue of land reform. In particular, the section discusses the extent to which these elites share consensus on core values underpinning land reform; whether they equally regard land reform as a vital policy, and whether they share a common vision on the policy of land reform.

5.2.1 Core values on land reform

African National Congress

Before beginning, it is important to make a distinction between the ANC as governing party and the ANC as a political party. Land reform policies have been developed under the ANC as a political party. The ANC as a governing party was key in determining the policies and legislation discussed in Chapter 4. Once the legislation mentioned in Chapter 4 was formulated, it was approved and adopted by the Parliament of South Africa. Once legislation is adopted, the regulations became final. Land reform policies have also reflected ANC values as a political party. Land restitution and land redistribution are a common vision for the ANC political party as well as legislation that was approved by the ANC government. For instance, the provision made for the amendment of the Constitution to allow for the expropriation of land without compensation is considered ANC policy from the political party for land reform - this will be discussed later in the chapter. It has not yet been approved by Parliament and adopted by the ANC government. The following section highlights the values and vision attributed to the ANC as a political party outside of government.

The ANC as a political party and the ANC as a governing party share similarities in their vision for land reform programmes. The ANC as a political party encapsulates access to land, land redistribution and restitution as essential vital aspects of government legislation.

Since the transition to democracy, the African National Congress has implemented several land reform programmes to address the historical dispossession of land. The promise of land reform was introduced to empower citizens and to extend an opportunity for them to become landowners. The main objective was to reduce poverty. Land reform had three main focus areas: mainly: land restitution, land tenure and land redistribution. The following areas of focus are described and attributed to both the ANC as a political party. These policies highlight important aspects of the legislation approved by the Parliament of South Africa that the ANC as a political party consider important for land reform.

Land Restitution: Land restitution is the restoration of rights in land. This means that the right of land or a portion of the land that was dispossessed after June 1913 is returned to its rightful owners. The Restitution of Land Rights Act 22 of 1994, determines that an individual or community whose land was dispossessed, can claim for restitution of the right in land or redress. On the other hand, land redistribution is the provision of certain land for settlement purposes.

For land restitution, the government compensated individuals who had been forcefully removed from their land. Land restitution was one of the ANC's key focuses since the transition to democracy in 1994. On a legal basis, land restitution was provided for in the interim Constitution, section 25 (7) of the 1996 Constitution and the Restitution of Land Rights Act 22 of 1994. Progress on handling land claims was slow. Therefore, the Restitution Act was amended in 1997 and again in 2014. The

approach shifted from a judicial one to an administrative one in 1999. Beneficiaries now had direct access to the Land Claims Court instead of having to go through the Commission on Restitution of Land Rights first.

These legislative changes govern the process of land reform through making land claims, redistribution, expropriation and restitution. The main aim of land restitution was to ensure equitable redress of victims of land dispossession (South African History Online, 2014). Moreover, it makes provision for the restitution of land rights to those who were dispossessed, and addresses restitution claims within the given period. The deadline to address the restitution claims was set for 2005. However, the deadline was extended to 2011 (South African History Online, 2014). In 2012, the ANC introduced a new policy on land restitution. This policy was directly based on section 25 of the Constitution that stipulated that expropriation of land must be compensated in a “just and equitable” way. Expropriation is only allowed if it is in “the public interest” or for “public purpose” (Tolsi, 2012). It was decided that the compensation for land to be expropriated would be determined by the courts if prices of land could not be determined by the individuals. Additionally, if land is not utilised to its full potential by owners and those it had been restituted to, the land would be taken. It had also been decided upon that expropriation without compensation would only occur if land was acquired illegally (African National Congress, 2012). The courts would determine which land was acquired illegally. This would depend on the evidence provided (African National Congress, 2012).

The land restitution programme was implemented in 1998 to address land dispossession. However, there were severe backlogs once beneficiaries began making land claims. By the end of 2011, a total of 79 696 land claims were submitted and 76 023 claims were settled (Sizani, 2012). The deadline for finalising land claims was postponed four times following 2002. While 30 percent of the country’s land was intended to be redistributed by 2014, land restitution programmes failed for the following reasons:

- White farmers and landowners kept increasing the price of their land;
- Expropriated land given to black farmers was misused;
- Resources constraints contributed to the inefficiency of the courts to deal with land claims (Sizani, 2012).

Land Redistribution: The redistribution of land was a provision made to improve the quality of life and livelihoods for previously disadvantaged communities and individuals by acquiring land. This legislative framework was created to govern the process of land reform and ensure equitable redress to victims of land dispossession. The collective purpose of land reform is to ensure that 30 percent of the land in South Africa is transferred back to its former owners. The land redistribution programme

focuses on relocating the land back to those who were deprived of their land during colonialism and the apartheid era. The land redistribution programme gained momentum in 1998 when almost 250 000 individuals had received land. In 1999, 50 000 individuals had received land and 446 redistribution projects had been implemented (Cliffe, 2000: 275).

The ANC political party has been heavily reliant on the notion of “willing-buyer, willing-seller” (Lahiff, 2007: 1577). This concept is a market-led reform programme that was influenced by the World Bank and enjoyed by landowners. Land was bought from its owners (the willing seller) by the government and was redistributed to the willing buyer (Lahiff, 2007: 1577). However, this programme has been blamed for the slow progress and failings of land reform programmes in the country. In February 2014, in President Zuma’s State of the Nation Address, he stated that the willing-buyer, willing-seller principle is “not working” (Zuma, 2014). President Zuma proposed changes to the programme and outlined the following five points:

- “Develop district land reform committees where all farmers, stakeholders and beneficiaries seeking redress work together to find land available for land reform”;
- “The government buying land at 50 percent of the market value”;
- “Farmers gaining economic empowerment status if they are willing to sell their land at 50 percent of its market value”;
- “Increasing financing for land reform”;
- “Increasing investment in agricultural development and research” (Zuma, 2014).

Land Tenure: Land tenure was a programme that was implemented to recognise individuals’ “rights to own land and land redistribution is seen as the most important component (Cliffe, 2000: 275). The land tenure programme seeks to address problems in relation to insecure, disputed and overlapping land rights. The Interim Protection of Informal Land Rights, Act 31 of 1996, the Communal Property Associations, Act 28 of 1996, and the Land Reform (Labour Tenants) Act 3 of 1996, were all laws that were implemented to facilitate land reform. These laws protect individuals from insecure tenure, and from losing their land rights and enables communities to acquire and manage land under the regulations stipulated within the Constitution (Cliffe, 2000: 275). The main aim of this programme is to change the institutional and legal framework of land administration.

The ANC as a political party has developed and has implemented several land reform programmes to redress inequality in land ownership and to unlock the economic prospective of land. The party supports land redistribution and land restitution programmes that support agricultural investment (African National Congress, 2018). Therefore, it is imperative that agricultural skills development and training, financing, equipment and market access are provided to all beneficiaries. Beneficiaries

should be provided with the opportunities and assets to sustain their livelihoods (African National Congress, 2019).

Democratic Alliance

The Democratic Alliance (DA) supports land reform and supports objectives to “achieve redress in rural communities, promote economic inclusion to lift rural people out of poverty, and supports growth and prosperity in the agricultural sector” (Democratic Alliance, 2013: 3). Land reform should be seen as a mechanism for economic development. As land use is connected to food production and security, “policies that affect land ownership and land use must prioritise the need to ensure the continued supply of food at prices that are affordable to ordinary South Africans” (Democratic Alliance, 2013: 3).

Land reform can be a powerful tool for imperative redress of the injustices of the past, as well as economic development for communities and individuals (Democratic Alliance, 2019: 21). The DA states “that apartheid policies have caused substantial distortions in the distribution of land between black and white South Africans” (2013: 4). These laws have “institutionalised the informal tenure of arrangements which have been a fundamental factor in developing South Africa’s dualistic agricultural sector that has established a commercial farming sector that co-exists with a wide range of subsistence farms that are owned under communal land” (Democratic Alliance, 2013: 5). A small number of commercial farmers are responsible for approximately 95 percent of agricultural output in the country. It is estimated that there are 200 000 commercially orientated farm owners, most of whom function in former homeland areas. Moreover, 2.9 million households are reported as “subsistence producers” who produce food for their own consumption (Democratic Alliance, 2013: 5).

Land Tenure: An estimated 21 million South African citizens live on approximately 17 million hectares of communal land. This amounts to almost 17 percent of South Africa’s total farming land; because of this, tenure security should be a priority for the South African Government. The DA has argued that the National Development Plan (NDP) does not identify sufficient protection of tenure rights for black farmers in communal areas. Furthermore, the party argues that it is “nonsensical to continue with the discussions on land reform policy if this major risk to the process is a no-go area in the debate” (Democratic Alliance, 2013: 10). The provision of urban title deeds should be sped-up to ensure that land reform gives ownership to South African citizens. In the party manifesto, it has been indicated that current land reform programmes have not enabled the beneficiaries of land reform to own their land (Democratic Alliance, 2019: 20) Land should not be state-owned. Beneficiaries should be given ownership of their homes and these individuals should have the opportunity to own land

without a limitation on the amount of their holding (Democratic Alliance, 2019). Land reform should not make the people of South Africa “life-long tenants” (Democratic Alliance, 2019). The ownership of land and property rights are the foundation of all successful land reform initiatives; therefore, these rights must be protected.

Land reform models that work: The DA’s policy documents outline models for land reform management “through restitution that have proved to be successful or have the potential to become successful commercial agricultural” farms (Democratic Alliance, 2013: 14). These include joint partnerships between emerging and established farmers to ensure that new farmers that have access to land have experienced and skilled agri-business specialists. Moreover, collective relationships between farmers, including emerging entrants, will ensure that capital equipment is shared, and that skills and resources are pooled for marketing opportunities for products. Furthermore, land reform beneficiaries should be able to generate their own “income from their land by permitting other farmers to use their land on a contract basis” (Democratic Alliance, 2013: 14). The DA supports proposals set out in the National Development Plan (NDP) for “district level land committees that can assist government in identifying land for redistribution, organise support for land reform beneficiaries”, participate in the distribution of important information about land reform initiatives and provide a platform to share success stories of land reform that can be replicated (Democratic Alliance, 2013: 14). The redistribution of land in South Africa should start by redistributing state-owned land to beneficiaries of land reform.

Support for emerging farmers can be achieved through agricultural support and worker skilling. Research shows that land reform output is significantly increased when beneficiaries received agricultural development support (Democratic Alliance, 2013: 15). While national land reform policy recognises that there is a need to support subsistence farmers, the Government’s support structures are unsuitable for small-scale farmers (Democratic Alliance, 2013: 16). Approximately 70 percent of South African citizens live in rural areas and support for subsistence farmers is an essential part of reducing poverty. According to the Democratic Alliance (2013: 16), the most significant deficiency in the current support system is the fact that beneficiaries only receive training once the land has been transferred. Training should be rolled out before beneficiaries receive the land. This proposal is consistent with the approaches set out in the NDP that states that training and skills development should precede land transfers.

Economic Freedom Fighters

Among the EFF’s key non-negotiable pillars for economic freedom are:

- “Expropriation of land without compensation for equal redistribution”;

- “Nationalisation of banks, mines and other strategic sectors without compensation”;
- “State agencies” (Malema, 2013).

In the EFF’s founding manifesto, the party claims that the South African Government planned to redistribute 30 percent of the land back to the beneficiaries of land reform by 2014. However, by 2012, the government had only redistributed 8 percent of the land (Economic Freedom Fighters, 2013: 4). The main consequence of this failure is that the majority of “blacks on farms remain slaves denied of basic human rights that most people take for granted” (Economic Freedom Fighters, 2013: 4). Farmworkers and labour tenants are underpaid and overworked, and this is due to the laws that were developed by the post-1994 government. According to the EFF (2013: 4) between 1994 and 2004, white farmers had evicted approximately 1 million workers from their land and these workers are now populating “squatter camps on the outskirts of townships”. Instead of trying to correct these failures, the ANC has merely changed the deadlines to 2030, thereby continuing to endorse policies that have failed in the first 20 years since the transition to democracy (Economic Freedom Fighters, 2013: 4). Therefore, the EFF stated that it will be involved in mass movements and protests that seek to improve the lives of South African citizens. Furthermore, the party claimed that it will associate with movements that demand land reform through “land occupation that is aimed at making the message clear that our people do need the land” (Economic Freedom Fighters, 2013: 7). Thus, the EFF supports workers and trade unions that are willing to stand up for better working conditions and salaries. The EFF states that it will not “compromise the interests of farm workers because they belong to different trade” unions (Economic Freedom Fighters, 2013: 7). Its main goal is ensuring that black people “fashion in the course of the struggles” (Economic Freedom Fighters, 2013: 7). Expropriation without compensation is one of the party’s main strategic missions, along with the “nationalisation of mines, banks and other strategic sectors of the economy” to ensure that there is equal redistribution of the country’s wealth (Economic Freedom Fighters, 2013: 8). Attaining economic freedom requires that multinational and private ownership “of the economy be discontinued, and all economic wealth directed to the ownership and benefit of all people” (Economic Freedom Fighters, 2013: 7). This will be achieved through a range of combined forms of collective ownership, varying from co-operatives and workers to state ownership and control of the central sectors of the economy. According to the EFF, state ownership will be implemented within this context, a fundamental component that will “lead to continuous forms of collective ownership, benefit and control, and therefore not narrow State-capitalism” (2013: 8).

5.2.2 Party stances on a key policy issue: Expropriation without compensation

This section closely examines a crucial and contentious aspect of land reform in South Africa, that of expropriation without compensation, in order to establish the extent of elite consensus on this central policy aspect.

According to section 25 of the Constitution, no property, including land, may be expropriated arbitrarily; only for public use/interest. However, under certain circumstance, “it may be just and equitable for nil compensation to be paid where land is expropriated in the public interest” (Constitution of the Republic of South Africa, 1996).

In 2018, a new Expropriation Bill was released which stipulated the five kinds of property that are subject to expropriation without compensation, all of which the ANC has agreed with, namely:

- “Abandoned property where legal experts have argued that such buildings are “easy targets for expropriation”
- “Property owned by Transnet and Eskom as this land is owned by a state-owned corporation”
- “Land held for speculation”
- “Land into which the state has already invested more than its value”
- “Farms with labour tenants” (de Wet, 2018).

According to Elmiem Du Plessis, an Associate Law Professor at North-West University, expropriation is a means for the government to take possession of property as opposed to obtaining land in the open market, based on market value principles and procedures (2018). Only the government has the power to expropriate land, “no person or court can force the state to use these powers” (Du Plessis, 2018). When the government decides to use its power to expropriate land, the owner whose land is being expropriated does not have the authority to choose not to be expropriated. It is important to note that this does not mean that the owners’ rights are not protected. The Constitution specifies that expropriation must be executed in accordance to the law of general application that it must be in the public interest or for public purpose; against equitable and just payment of compensation when expropriation is enacted (Expropriation Act 63 of 1975).

This is a justifiable limitation on private property rights, and if executed in accordance to the rule of law and when compensation is provided, does not diminish the framework of private property rights (Du Plessis, 2018). Expropriation is an important mechanism for fast tracking land reform in the country. According to Du Plessis (2018), in terms of South African law, expropriation must not only be enacted for public purpose but also for public interest. In the Constitution, public interest includes the country’s commitment to land reform. It has been argued that this leaves room for the government to expropriate private property and assign it to a beneficiaries of land reform. However, with regard to the new Expropriation Bill, the government should not expropriate private property for this reason;

the owner has the right to apply to have their property reinstated (Du Plessis, 2018). The government's power to expropriate land is not unusual. Most governments "need this power to ensure that public projects, such as building roads, are possible and not crippled by one individual that is not willing to sell their land (Du Plessis, 2018).

Expropriation is an important mechanism for fast tracking land reform in a country. However, whether compensation is paid or not is a different matter. The ANC had argued in the early years of democracy that the expropriation of land was necessary under certain circumstances, where compensation is payable for land expropriation by the state. This payment should be just and equitable. However, the ANC recently changed its views on this matter. After supporting the market-led land reform programme of willing-buyer, willing-seller, the ANC changed its policy to advance the expropriation of land without compensation policy. This policy was endorsed at the 54th conference of the ANC in December 2017. In January 2018, President Ramaphosa stated that expropriating land should not destroy the economy. It should allow the economy to grow, as well as growing farm production (Ntsebeza, 2018). Ramaphosa argued that the ANC's objective is to build the potential of South Africa's agriculture to create employment, transform the economy and promote industrialisation.

Two proposals were made by the ANC to amend section 25 of the Constitution. The first proposal was released in July 2018. The first proposal covered the amendment of subsections (2)(b) and (3) of section 25 of the Constitution as follows: "(2)(b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court: provided that a court may determine that no compensation is payable in the event of expropriation of land for the purposes of land reform" (De Oliveira, 2019). Additionally, (3) "where compensation is payable, the amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances" (De Oliveira, 2019).

This proposed amendment gives the courts the supreme decision-making power to determine whether compensation for expropriated land will be payable. This proposal included the plans to amend the Constitution to allow for the expropriation of land without compensation. Ramaphosa admitted that section 25 of the Constitution already allows for the expropriation of land without compensation in the public interest or for public use (Marrian and Mvumvu, 2018).

At this point, the ANC's stance on the expropriation of land without compensation remained unclear. There was a disunity in the views of the ANC and its alliances over whether constitutional amendments are needed (Marrian and Mvumvu, 2018). The second proposal, issued on 6 December

2019, takes away the power of the court to determine whether compensation for expropriated land is payable. This power was given to “expropriating authorities” as set out in the draft Land Expropriation Bill as a division of the state or an individual entitled by the Act to obtain land through expropriation.

Land use determinations include, among other factors, how the land was first acquired and the way in which the land is currently being utilised. According to Webber, “the target of land reform in the past has been to expropriate large tracks of undeveloped, underutilised land and develop such land for new housing developments. This will remain unchanged with the amendment. It may, however, include the expropriation of agricultural land that will be redistributed to communities, but it should be emphasised that such land has to be appropriately valued by a court, if the Ad Hoc Committee has chosen this route” (2019). State-owned land, land that is underutilised, agricultural land, abandoned land, land held for speculation and farms with labour tenants will continue to be expropriated and redistributed to beneficiaries of land reform. The value of this land will be determined by the court, should the Ad Hoc Committee choose this course.

The ANC has argued that it will provide land to those who work on it and those who need it. For this reason, the ANC is supporting expropriation without compensation. However, according to a speech President Ramaphosa delivered in Kimberley on 8 January 2020, land will be redistributed in a way that sustains food security and promotes economic growth (Mkentane, 2020). Moreover, expropriation will be done in line with the provisions made in the Constitution.

In an interview with Bloomberg Politics in October 2018, Ronald Lamola, the ANC’s spokesperson on land affairs, stated that expropriation without compensation will only be implemented in certain circumstances and this will be guided by the Constitution. The main aim of expropriation without compensation is to allow all South Africans to have the opportunity to participate in the economy through agricultural measures. Moreover, the ANC believes that all citizens (white, black, coloured, and Indian) must be included in the distribution of land.

Lamola expressed that the ANC’s land reform programme protects private property rights and that expropriation will only be implemented in certain circumstances, as mentioned earlier in the paragraph. Property rights will be safeguarded, and expropriation does not diminish this right. The only way in which property rights will be diminished is if the country’s land is nationalised (Lamola, 2018).

The Economic Freedom Fighters are explicitly in favour of the expropriation of land without compensation. The EFF’s land reform approach is that all land should be transferred to the custodianship and ownership of the state in the same way that all petroleum and mineral resources

were transferred to the custodianship and ownership of the government through the Minerals and Petroleum Resources Development Act 22 of 2002. The government should have the capacity to transfer all land to the state where land will be used and administered for sustainable-development purposes (Economic Freedom Fighters, 2013: 9). This transfer of land will occur without compensation being paid and will be applied to all South African citizens. Land leases will be given for a maximum of 25 years, with the government reserving the power to expropriate the land in any circumstances where land is not being used for the purposes that applicants have applied for.

According to Malema, expropriation without compensation should be seen as a means of socio-economic redress and should be implemented as the key mechanism for land reform. (Head, 2019). The EFF's policy clearly stipulates that the state should be the "custodian of all South African land" (Hall, 2018).

The EFF first introduced their motion to amend the Expropriation Act in 2017. After successfully forcing the amendment of the Constitution, the National Assembly adopted the motion to review section 25 of the Constitution on 27 February 2018 (Merten, 2018). The initial motion of the party was discussions of the state owning all land. However, this motion was overruled by Parliament.

In the EFF's 2019 Manifesto, the party promised the expropriation of land without compensation. It was argued that expropriation should be the main mechanism of land reform as land is the "master key" which should be used to address the legacy of land dispossession and crippling poverty in the country (Head, 2019). The EFF has posited that:

- Section 25 of the Constitution will be amended to allow for the expropriation of land without compensation
- 50 percent of land will be owned by the youth and women
- An end to all foreign land ownership
- A council will be established to handle all issues dealing with the expropriation without compensation policy

While the ANC did not initially agree, arguing that the Constitution already allows for the expropriation of land without compensation, in 2018, the ANC changed its view and agreed with the motion to allow for the expropriation of land without compensation. Today, both the ANC and the EFF support the expropriation of land without compensation and propose the amendment of section 25 of the Constitution to achieve this goal.

There is, however, one significant difference that should be taken into account. The EFF wants to implement nationalisation so that the state owns all land in the country. The ANC regards

expropriation without compensation as merely one of the key mechanisms for land reform and redistribution. The ANC has argued that nationalisation would undermine future investment and damage agricultural production and food security. The ANC has argued that the expropriation of land without compensation should be implemented in a way that promotes economic development, food production and food security. However, following three years of negotiations about the policy, the ANC has not yet clearly outlined how this will be achieved and how expropriation without compensation will be implemented. The EFF has compromised its position on the nationalisation of land in order to come to an agreement with the ANC on expropriation of land without compensation and the subsequent amendment of section 25 of the Constitution to allow for this.

By contrast, the DA explicitly opposes the expropriation of land without compensation. According to the DA, land reform programmes should focus on land redistribution, on ensuring that beneficiaries of land reform become owners of their land, and as a mechanism for economic development. Expropriation without compensation would make citizens of South Africa tenants on their own land. Property rights would be violated, and citizens would not enjoy security of tenure. The party firmly believes that the land should not be returned to the state and South African citizens should not become tenants of their own land.

The DA has warned that expropriation without compensation could also increase the fragility of the country's economy and could collapse the country's financial system (Business Tech, 2020). According to Steenhuisen, land expropriation without compensation is not a realistic mechanism for land reform because land expropriation without compensation will be "paid for by the negative effects on the economy" (My Africa, 2019). While the ANC ensures that expropriation without compensation will not diminish private property rights, the DA firmly opposes that view and argues that expropriation without compensation would take away individuals' rights to own land or their own private property (Maimane, 2018). Expropriation will violate private property rights. Private property rights are the cornerstone of any successful liberal democracy. Therefore, these rights need to be protected.

Moreover, according to Glynis Breytenbach, a DA member of Parliament, expropriation without compensation could enable corruption (2019). The DA has stated that the main reason why current land reform programmes have failed is because of deeply embedded corruption, lack of capacity and training, lack of political will, and diversions of land reform budgets. All of these are essential factors to meaningful land reform (Montsho, 2019).

The DA has warned against radical populism in South Africa. Steenhuisen argued that if the South African government was serious about land reform, constitutional amendments would not be

necessary. Land expropriation without compensation is merely a hoax to distract South African citizens from the vast backlogs in land restitution and land redistribution.

Using race as a cover-up for the abuse of power, talk of genocide, damaging socialist policies, and incitement has “only guaranteed more poverty and suffering” (Maimane, 2018). The expropriation of land without compensation has crippled countries such as Zimbabwe and Venezuela. According to Maimane, land expropriation without compensation should not be evaluated in isolation (2018). Land expropriation without compensation is a destructive concoction of nationalisation, land expropriation, the centralisation of power, populism and corruption that will lead to the collapse of the country (Maimane, 2018). None of these factors is conducive to building a country that is inclusive of all its citizens. The DA firmly believes in the promotion and protection of private property rights. Land expropriation without compensation impedes on private property rights and makes South African citizens tenants of the land and not land owners (Maimane, 2018).

The party claims that they will achieve meaningful land reform by giving black citizens the opportunity to own both urban and agricultural land:

- Beneficiaries will receive full title deeds of their state-subsidised houses, as well as recipients of previous RDP homes;
- First-time buyers will have more affordable land to purchase through lowering transfer costs;
- State-owned land will be distributed, instead of treating first time farmers as tenants of the land;
- Residents will receive tribal land tenure security that has been legally recorded;
- Adequate budgets will be set out to settle all remaining land restitution claims;
- Any individual that wants to farm will receive the support and skills training needed to be successful (Democratic Alliance, 2018).

These objectives can be achieved without amending the Constitution (Democratic Alliance, 2018).

The Land and Agricultural Development Bank has also cautioned that expropriating land without any compensation could cost the South African government R41 billion if the state is compelled to repay the state’s debt promptly (van Tilburg, 2020). Additionally, farmers presently owe R190 billion in agricultural debt (van Tilburg, 2020). The ANC would be accumulating an additional R230 billion in debt.

Consensual unity is low because of conflicting ideological views on land reform. Political ideologies are the basis of any political party (Koekemoer, 2017: 17). The ANC’s ideologies have been influenced by Africanism and communism. The influence of these ideologies continues to have

considerable impact on the party (Koekemoer, 2017: 17). This also helps understand why ANC practices and policies include radical, liberal and socialist spectrums (Koekemoer, 2017: 17). Presently, the party is divided between the values and attitudes of its founders and those who seek political power for personal gain.

Liberalism is the core ideology of the DA. Its core concept is an “open society for all”. The party is broadly centrist, and has administered both centre-right and centre-left policies (Koekemoer, 2017: 18).

The EFF was established by Julius Malema, who was a long-time member of the ANC. Malema is well known for his controversial behaviour and statements in Parliament which led to his dismissal from the ANC in 2012. The EFF has presented itself as a “radical Leftist, anti-capitalist and anti-imperialist movement” (McKenna, 2019). The EFF continues to promote the controversial propositions Malema promoted while a member of the ANC, including the nationalisation of the mines and the expropriation of land without compensation (McKenna, 2019). The main goal of the EFF is economic liberation. This clear divide in ideologies between the three political parties has had a clear impact on the decision-making process in relation to the land question.

In sum, various segments of the legislation were implemented to redress past inequalities brought about by land dispossession. Section 25 of the Constitution stipulates that a community or person dispossessed of land is entitled to equitable compensation or restitution of the property. Government has the responsibility to ensure that beneficiaries have access to land on an equitable basis and if a person has insecure tenure due to past discriminatory laws, these communities or individuals are entitled to tenure that is legally secure or to comparable redress. The Expropriation Act makes provision for the expropriation of land for public interest. Moreover, it stipulates that compensation is just and equitable, should land expropriation occur.

The White Paper on land policy provides the framework for land reform. The main objective of White Paper is that land redistribution programmes should provide the poor with access to land, in order to improve their quality of life. Land restitution made provision for Provision is made for three wide-ranging categories of relief: restoring the land being claimed, granting alternative land to beneficiaries or payment of compensation. In 2003, an amendment was made to the Restitution Act stipulating that land could be expropriated by ministerial order. Land tenure made provision to strengthen and protect land rights. This reform was established to ensure that the tenure rights of victims of past discrimination are secure. Lastly, land redistribution Land redistribution seeks to address the imbalance of land ownership on a more extensive scale.

All three political parties involved in this study regard land reform as vital policy. According to the ANC, land reform policy should be seen as a mechanism to redress the injustices of the past through land restitution and redistribution as its main focus. However, the party has not disregarded land tenure as an important part of the legislation. With regards to the DA, the party claims that land reform should be seen as a mechanism for economic development. Moreover, the party agrees with the ANC in believing that land reform should be seen as a powerful tool to redress the injustices of the past. However, the DA places emphasis on land tenure arguing that providing urban title deeds should be sped-up to ensure that land reform makes citizens land owners. Land should not be state owned. For the DA, land ownership should be considered the foundation of all land reform initiatives. While the EFF agrees that land reform is vital policy. However, the party has a radical stance on how land reform should be achieved. Each political party merely places emphasis on different areas of the legislation implemented by government.

Political leaders have agreed that land reform is essential policy. However, the ANC has placed its focus on land restitution and redistribution, the DA considers land tenure the basis of all its land reform initiatives and the EFF maintains that all land should be state owned. According to the EFF, this can be achieved through the expropriation of land without compensation, nationalization of this land and owned by state. Prior to the EFF proposing that land should be expropriated without compensation, one can argue that the ANC and the DA had the same objectives with regard to land reform policy as that of the ANC. In 2014 when the land restitution bill was passed, the ANC and the DA were in agreement. The DA merely attempted to introduce additional amendments, but were outvoted by the ANC (eNCA, 2011).

When the EFF was established and proposed that land should be expropriated without compensation, the ANC changed its vision for land reform in stating that land should be expropriated without compensation to speed up land reform. The DA argues that expropriation without compensation would be unconstitutional as it would violate land owner's property rights. All three political parties regard land reform as vital policy. However, there is disagreement about the vision of land reform policy and how it should be achieved. The ANC and DA's vision for land reform policy in accordance to the legislation implemented were similar, with the ANC placing focus on land restitution and redistribution and the DA emphasizing land tenure. However, this changed with the establishment of the EFF. The ANC then changed its stance to include the expropriation of land without compensation to speed-up the redistribution of land. Both the ANC and the DA disagree with EFF's policy vision that land should be expropriated without compensation then nationalized. The ANC and DA believe that land should be redistributed to land reform beneficiaries to redress the injustices of past land dispossession. Debates held on land reform have been time-consuming because of this. Therefore,

this disagreement among elites on how land reform should be achieved had hindered efficient land reform.

5.2.3 Summary analysis: extent of elite consensus on core values and common vision

The previous section discussed the extent to which these elites share consensus on core values underpinning land reform, whether they equally regard land reform as a vital policy, and whether they share a common vision on the policy of land reform. This section concludes that while elites share consensus that land reform is a vital and pressing policy issue, they do not necessarily share a common vision.

There is a larger degree of elite consensus on the issue of expropriation of land across the ANC and the EFF. Both political parties cooperated in national Parliament to adopt the motion to amend section 25 of the Constitution to allow for the expropriation of land without compensation. While the ANC and the EFF support the expropriation of land in principle they differ on the question of payment of compensation (reviewed in the following section) and nationalisation. The ANC does not support the nationalisation of the country's land. The party's reasoning for this is that the nationalisation of land has the potential to collapse the economy.

The DA opposes both the expropriation of land without compensation, and the principle of nationalisation of land. The DA has stated that the country is not financially equipped for expropriation without compensation and that it has the ability to harm the country's economy. Moreover, expropriation violates the constitutional property rights of landowners.

The ANC and EFF have argued that the issue of land in the country is a black versus white problem and that the legacies of colonialism and apartheid were characterised by the forced dispossession of land owned by the indigenous population. Colonialism and apartheid created an economic system that conquered the black population to serve the interests of the white settlers. However, the DA claims otherwise. It is about "the very essence of constitutionalism; the people should own the land, not the state. Land should not be returned to the state and black South Africans should not be made tenants in their own land" (Maimane, 2018).

Moreover, political elites among the ANC, the DA and the EFF have been unable to reach a consensus on the land question due to the profound value-based and ideological disagreements as to what constitutes land reform in the country. For the DA, land reform means making all South Africans land owners, not land tenants. The DA argues that the ANC and EFF's land reform makes the state the owner of the land and citizens land tenants. Expropriating land without compensation directly

infringes citizens' property rights and their right to own land. For the EFF, land reform means that all land should be nationalised and distributed equally back to black South Africans to address the injustices of the past. The ANC is focused on addressing the injustices of land dispossession through land restitution and land redistribution. The ANC has admitted their failures in addressing the land question and claims that the expropriation of land without compensation will fast-track efficient land reform.

With regard to the criteria mentioned at the start of chapter, it should be noted that there is elite consensus among the political elites within the ANC, the DA and the EFF on the core values of land reform. Each political party regards land reform as vital policy in South Africa and all agree that land reform should be seen as a mechanism to redress the injustices of past land dispossession. However, disunity materialises on vital policy matters, i.e. the expropriation of land without compensation.

5.3 Consensus about institutional rules of the game and codes of political conduct

This section discusses each political party's individual stance towards each other and towards the broader political institutions and Constitutional framework within which they operate as they endeavour to find consensus on the issue of land reform. In particular, the section discusses the extent to which these elites accept one another as legitimate participants in the political process, accept the political institutions they frequent (Parliament) as legitimate, and whether they especially accept the legitimacy of the Constitutional order.

5.3.1 Do elites accept one another as legitimate?

It is important for this study to examine these elite's style of engagement with each other. In particular, how do political elites conduct themselves and towards the other in terms of their tone, rhetoric and behaviour toward each other. Are South Africa's political elites antagonistic? Are they co-operative and are they willing to compromise on the policy issue? How elites communicate and engage each other shapes elite consensus around policy issues. A consensually unified political elite is essential for democracy and democratic stability. A consensually unified political elite means that its "members share a set of informal rules and norms, i.e. procedural rules of a democracy. However, they may disagree on substantive questions" (Zavecz, 2017: 5). Therefore, political elites can ensure political stability is maintained, as sharing a set of informal rules and norms prevents disorderly actions from occurring and ensures that political issues are debated in a manner that does not undermine democratic stability (Zavecz, 2017: 5). Higley and Pakulski state that democratic stability is maintained by political parties when there is mutual trust among elite factions, by avoiding highly

charged conflicts during the decision-making process, and competing for political power in a regulated approach (2008: 16). Growing disunity, conflict and distrust among political elite groups, especially if there are debates around the shared rules and norms, can lead to a decrease in political stability (Higly and Pakulski, 2008: 16).

How do political elites interact with one another? How is their communication important to politics in the country? Elite political culture is characterised by patterns of behaviour. These patterns of behaviour, values and mindsets have a direct effect on the political outcomes of the country. Moreover, the actions and interests of the political elite shape mass political culture (Inglehart, 2000: 271). Elite political culture is the opinions and perspectives political elites have about the political system, its day-to-day activities and the commitments they adhere to.

Political elites are “politically diverse” groups of leaders (Gulbrandsen and Engelstad, 2005: 899). As the leaders of a political regime, these political elites act as representatives of the people. These individuals have been elected to act on behalf of the country’s citizens, addressing their interests and concerns (Gulbrandsen and Engelstad, 2005: 899). Therefore, it is imperative that mutual consensus, accommodation and compromise exists among these political elite to ensure the maintenance and stability of the democratic regime (Gulbrandsen and Engelstad, 2005: 899).

The significance of the political elites and their attitudes and behaviour, is their ability to strike compromises and cooperate with one another to reach a consensus about how to address policy issues and to preserve the democratic regime (Peffley and Rohrschneider, 2009: 66). Here, the way in which political elites communicate with one another is essential. It is important that each respects the views of other parties. The involvement of political elites requires debates, discussions, negotiations and compromises. These factors are all essential to democratic governance (Herson and Hofstetter, 1975: 1012). With an agreement on the decision-making process and codes of conduct, members of the political elite accept decisions made in parliament, even if they do not agree with the decision made because it is what is considered best for the political system. This makes the policy process more sufficient.

When political elites are unwilling to negotiate and compromise public policy issues, this delays the policymaking process. It is important that there is some agreement among political elites from various political elite groups on policy issues that are considered discordant (Baylis, 2012: 91). The reason for this is that during parliamentary procedures, such as committee meetings, debates and discussions are on policy issues and a vote is taken by all members of parliament. In order for a bill to be passed or an amendment to be implemented, there needs to be a majority vote (Baylis, 2012: 92).

All decisions that are made in the Parliament of the Republic of South Africa are based on majority rule principle. It is required that more than half of all members of parliament who have cast their vote to agree in order to make a decision on the issues and solutions being voted on (Constitution of the Republic of South Africa, 1996).

The elite political culture in South Africa can be described as antagonistic and disdainful. In particular, the way in which political elites communicate with one another is problematic. This behaviour among political elites has hindered efficient decision-making on various policy issues.

According to Bachrach (1962: 442), the characteristics that are deemed important for elite consensus are the willingness to compromise on policy issues, cooperation between various political parties/groups, and respecting each member's views, including those from opposition parties. When debating and negotiating stances on the land question in parliament, political elites from the three parties uncooperative and disruptive.

Members of Parliament behave in an “unparliamentary” manner. Unparliamentary behaviour is any assertion, gesture or remark that disregards the respect that members are required to afford each other during the proceedings of parliament. Moreover, unparliamentary behaviour can also be deemed by the presiding officer as provocative, threatening or offensive. These include personal insults, attacks, or obscene language, “none of which are rendered parliamentary by being framed as a question, used hypothetically or being quoted” (People's Assembly, 2014). Unparliamentary behaviour is not applicable to political parties, only to individuals, “and include, but are not limited to, unsubstantiated allegations, nickname references and animal noises” (People's Assembly, 2014). Political elites among the ANC, the DA and the EFF have displayed specific “proclivity for using animal references to insult fellow members, all of which have consequently been declared unparliamentary” (People's Assembly, 2014). For instance, at a land debate in 2019, the EFF's Floyd Shivambu called out the ANC's Mosiuoa Lekota on his stance on the expropriation of land without compensation. Lekota stated that the Constitution specifically states that South Africans should not be deprived of their land (My Africa, 2019). According to Lekota, when land is expropriated, compensation should be paid. Shivambu, in a very condescending manner, continued and asked whether Lekota was paid by the “fascists from the nationalist party to come and squash the land problem” (My Africa, 2019). Moreover, Shivambu undermined Lekota's contributions to the liberation movement (My Africa, 2019).

The DA uses anti-ANC and anti-EFF sentiments to attract South African citizens to their cause. According to the DA, people who continue to support the ANC and EFF also continue to support broken and empty promises, corruption, high unemployment and poor service delivery. The DA refers

to themselves as the only feasible choice to the ANC and are very critical of the ANC and EFF policy decisions. During SONA 2017, the DA walked out of parliament, while the EFF was violently thrown out, yelling out that the ANC had used its resources to protect the Gupta family, while the ANC shouted that the DA MPs are racists (Lowman, 2017). Moreover, Jacob Zuma chuckled as the EFF was thrown out of Parliament. Chaos in Parliament is not a rare occurrence in South Africa. Political elites among the ANC, the DA and the EFF are condescending in the way they address one another in parliament and are also not afraid to insult one another. The unacceptable conduct of members during house sittings and debates regularly results in parliament descending into chaos. It can be argued that there is no recognition of rules or authority that govern the South African parliament. Condescending remarks are made as a “point of order”. Members heckle so loudly that other members cannot be heard while debating or responding to questions.

Members of parliament have freedom of speech. Their freedom of speech is “subject only to the rules of the House” (Parliament of the Republic of South Africa, 2020). Members of Parliament must abide by the rules and principles of the Standard of Ethical Conduct (Parliament of the Republic of South Africa, 2020). However, it has been documented several times how South African elites behave in an unparliamentary manner. Therefore, because of this unparliamentary behaviour, political elites among the ANC, the DA and the EFF have not reached a consensus on the land question, hence, the collapse of the ad hoc committee established in 2018 to address the land question. Political elites among the ANC, the DA and the EFF refuse to compromise their positions on the land issue. Political elites have disrupted committee meetings and voting panels for the amendment of the Constitution. Political elites from various other political parties stated that committee recommendations for land reform have been “irrational” (Gerber, 2018). Hence, the ad hoc committee not being able to conclude its work and meet its March 2019 deadline. A second ad hoc committee had to be established to fulfil its duty in making recommendations to amend the Constitution. Land reform has been at a halt considering the committees could not conclude its work.

The elite political culture in South Africa can be described as antagonistic. Political elites are disrespectful because they are condescending in the way in which they address one another in parliament. Unacceptable conduct of members often descends parliament into chaos because there is no recognition of the rules or authority that govern parliament. According to Higley and Pakulski (2008: 24), it is difficult to reach a consensus on policy issues using an elite political culture that is based on antagonism and unparliamentary behaviour. It is clear that South African elites struggle to reach a consensus on any policy issue.

In spite of the fact that it has been difficult to reach a consensus on the common vision for land reform political elites have not turned to using unconstitutional means to achieve its goals and objectives in

relation to land reform policy. Elite political culture in South Africa can be described as antagonistic and disdainful. Political elites are disruptive and uncooperative during parliamentary meetings. However, political elites still follow constitutional framework if a dispute between political parties about policy issues is significant. For instance, the DA has vowed to go to court if the Constitutional Review Committee recommends that the Constitution be amended to allow for the expropriation of land without compensation. Political elites may behave in an unparliamentary manner when dealing with policy issues, but this is not significant enough to be considered unconstitutional.

5.3.2 Do elites accept the legitimacy of the Constitutional order?

Two of the political parties (ANC and EFF) have argued strongly for a need for Constitutional Amendments to the South African Constitution while the DA has argued strongly against this proposal.

In February 2018, at the fifth session on land reform, Julius Malema, the leader of the EFF, argued that “the centre of the crisis regarding the resolution of the land question is section 25 of the Constitution, the Property Clause, which protects private property rights and requires the state to pay compensation when expropriating land in the public interest and for a public purpose” (Parliament of the Republic of South Africa, 2018: 8). Furthermore, it was recognised that this property clause has made it impossible for previously disadvantaged individuals to get justice for the dispossession of their land. President Ramaphosa committed to radical land reform that allows for the expropriation of land without compensation in his 2018 State of the Nation Address. Therefore, amending the Constitution to allow for the expropriation of land without compensation should go through parliamentary processes as Parliament is the only democratic institution in the country that has the authority to amend the Constitution (Parliament of the Republic of South Africa, 2018: 8). Therefore, an ad hoc committee should be established to review and amend section 25 of the Constitution.

On 31 July 2018, President Cyril Ramaphosa announced in a Land Reform Debate in Parliament that the ANC will propose an amendment of section 25 of the Constitution to provide more clarity on the circumstances under which the expropriation of land without compensation can be implemented. President Ramaphosa acknowledged that the Constitution already allows for the expropriation of land without compensation in specific circumstances. However, the “proposal is intended to make explicit what is currently implicit in the Constitution” (My Africa, 2018). The DA’s then leader Maimane agreed with President Ramaphosa on this statement. However, Maimane contended that the Constitution is not the issue in relation to ineffective land reform in the country. The main issues are corruption, a lack of political will to achieve land reform objectives and a lack of state capacity (My Africa, 2018). Julius Malema insisted, to the contrary, that all land should be owned by the state (My

Africa, 2018). Malema argued that giving beneficiaries title deeds to own land is a “set-up”, because the majority of South Africans live in poverty. Once these individuals are given the land with title deeds, they will merely sell the land back and the narrative that the land was dispossessed will be withdrawn. Therefore, all land should be nationalised (My Africa, 2018).

On 15 November 2018, a Joint Constitutional Review Committee (JCRC) was held to adopt its report in favour of amending section 25 of the Constitution to allow for the expropriation of land without compensation in public interest or for public use (Parliament of the Republic of South Africa, 2018). The ANC and the EFF voted in favour of the report. The DA voted against the committee report. Committee co-chairperson, Mr Lewis Nzimande of the ANC expressed gratitude to the EFF and to those who participated in the process of helping the committee decide on this matter. The JCRC was formulated to assess whether a “review of section 25 of the Constitution and other clauses is necessary, to make it possible for the state to expropriate land in the public interest without compensation, and also to propose constitutional amendments where necessary” (Parliament of the Republic of South Africa, 2018).

A multiparty ad hoc Constitutional Review Committee was established in March 2019 to “review and amend section 25 of the Constitution to make it possible for the state to expropriate land in the public interest without compensation” (Hall, 2018). In December 2018, the National Assembly recognised that the Constitutional Review Committee’s (CRC) report on reviewing section 25 of the Constitution was accepted by the National Assembly and made the following recommendations:

Amending section 25 of the Constitution to make it clear what is implied in the Constitution, in accordance to expropriation without compensation, as a valid option for land reform, to address the injustices of land dispossession of the past, and ensuring that South Africans have equitable access to land, food security and agricultural reform mechanisms:

- Urgently develop mechanisms that would effect the amendment to the applicable division of section 25 of the Constitution;
- Pass a Constitutional Amendment Bill prior to the conclusion of the Fifth Democratic Parliament to permit expropriation without compensation (Ad Hoc Committee to Amend section 25 of the Constitution, 2019).

The ANC supports the amendment of the section 25 of the Constitution because it will fast-track housing delivery. Housing remains a key priority for the party. It is stipulated in its manifesto that the ANC supports the amendment of section 25 of the Constitution and will clearly define the circumstances under which expropriation without compensation will take place (2019: 30).

The EFF has requested that “section 25 of the Constitution must be amended to make explicit that which is implicit in the Constitution with regard to expropriation of land without compensation as a legitimate option for land reform so as to address the historic wrongs caused by the arbitrary dispossession of land and, in so doing, ensure equitable access to land and further empower the majority of South Africans to be productive participants in ownership, food security and agricultural reform programmes” (Gerber, 2018).

According to Dr. Ndlozi, EFF spokesperson, once the amendment to the Constitution has been made to allow for the expropriation of land without compensation, it should be followed by an ad hoc committee that has been established to develop the proper legislation around expropriation without compensation. Following that, consultations with the public, stakeholders, business people, academics, etc., should occur to ensure that participation in the policy development is available to everyone (Ndlozi, 2018). The question of expropriation of land is different to the question of expropriation without compensation. The draft Expropriation Bill states that “property may be expropriated only in terms of law of general application ... for public interest or public purpose and is subject to compensation, the amount of which and the time and the manner of payment of which have either been agreed to by those affected or decided or approved by a court. The amount of compensation and manner of payment must be just and equitable” (2019: 118). If the Constitution does not clearly stipulate that land will be expropriated without compensation, individuals will merely go to the constitutional court and challenge the expropriation of their land and this will further delay land reform in the country (Ndlozi, 2018).

In the party’s 2019 Manifesto, the EFF stipulated the following:

An EFF government will ensure that section 25 of the Constitution is amended to allow for expropriation of land without compensation. This will allow for equal redistribution of land. It will be implemented with immediate effect.

The EFF wants the constitutional amendment to be explicitly clear that expropriation of land will occur without compensation and that land will be in the custodianship of the democratic state (Ndlozi, 2018). While the land will be in the custodianship of the state, citizens will receive title deeds to the land but will not be allowed to sell the land to foreign nationals. The EFF believes that in order to restore justice to South African citizens, land that was colonially acquired will belong to the state then be used for correcting injustices as well as reconciliation (Ndlozi, 2018). Malema has said that each political party has their own stance on land reform programmes, and they will vote in Parliament when the time comes (Umraw, 2018).

After proposed amendments to the Constitution were made by the ANC and EFF to allow for the expropriation of land without compensation, the DA released a statement on 12 March 2018 stating that while it supports land restitution and redistribution, it opposes the amendment of the Constitution (Business Tech, 2018). The DA leader, Mmusi Maimane stated that property rights are the cornerstone of economic growth and development. He added that expropriation without compensation is “state-sanctioned theft, which is inimical to economic growth and development” (Business Tech, 2018). The Democratic Alliance has revealed that they will step up their plan to prevent the expropriation without compensation model from being implemented in the country. Parliamentary DA member and shadow Minister of Justice Glynnis Breytenbach has written to Thando Modise, the parliamentary speaker that the DA’s complaints should be registered (Head, 2019). The DA has drawn Parliament’s attention to this section in Breytenbach’s letter that suggests that amending the document would be unconstitutional:

Without a constitutional amendment to section 25 of the Constitution, the State is currently able and within its powers to expropriate land for land reform purposes, based on just and equitable compensation” (Breytenbach, 2019: 1).

“If however, the purpose of the amendment is to implement expropriation without compensation wholesale and without conditions, then such a motion would offend section 1 of the Constitution and would in effect, collapse the core underlying values of our Constitution (Breytenbach, 2019: 1).

Breytenbach argues that “expropriation without compensation has the ability to breakdown the country’s economy even further” (Breytenbach, 2019: 1). She raised the “concern that it could enable corruption, slamming the billion-rand Mala restitution deal as being overly excessive” (Head, 2019). The DA blames the ANC for failed land reform in the country and firmly believes that land reform has the capability to be successful within the current framework of the Constitution (Head, 2019). Breytenbach maintained that “amending the Constitution is nothing more than an attempt by the ANC to hide its failures in land redistribution and reform” (2019: 2). The DA believes that the Constitution already includes legitimate initiatives for land reform, that are based on just and equitable compensation (Head, 2019).

The Democratic Alliance opposes “any abrogation of existing private property rights” (2018). Property rights are the foundation of “development and economic growth in South Africa” (Democratic Alliance, 2018). The expropriation of land without compensation is government-authorized theft (Democratic Alliance, 2018). The DA regards the efforts being made to amend the Constitution as an attempt by the ruling party to “scapegoat the constitution” for the failure of “land reform since the transition to democracy” (Democratic Alliance, 2018). The DA believes that the government has the responsibility to “fulfil the constitutional order to address the injustices of land

dispossession and expand the ownership of land patterns” (Democratic Alliance, 2018). Land reform should be based on the current constitutional framework.

Following the adoption of the CRC on the potential amendment of “section 25 of the Constitution, the National Assembly set up an ad hoc Committee to” manage the amendment process to ensure that the Constitution explicitly states what is already implicit in section 25 of the Constitution, in relation to the expropriation of land without compensation (Parliamentary Monitoring Group, 2019). The CRC made the following recommendations:

That section 25 of the Constitution must be amended make explicitly clear what is already “implicit in the Constitution with regards to expropriation of land without compensation, as a legitimate mechanism of land reform”;

That parliament must establish a mechanism to manage the amendment;

Parliament must lay out, process and implement a Constitutional Amendment Bill before the 5th Democratic Parliament to allow for the expropriation of land without compensation (Parliamentary Monitoring Group, 2019).

Is a Constitutional Amendment necessary? Professor Ruth Hall, an expert on land reform, argues that the Constitution already provides for expropriation without compensation. This was implemented during the transition to ensure that those who currently own land do not prevent any form of redistribution and restitution from taking place (2018). She contends that these powers have existed since the transition. However, the government has chosen not to use their powers to expropriate land (Hall (b), 2018). If section 25 of the Constitution is read as a whole, it clearly states that compensation is not a mechanism that will hinder land reform. When taking compensation into account as it is stated in the Constitution, compensation is only required to be “just and equitable”, not market value (Parliamentary Monitoring Group, 2019). The main purpose of expropriation should be used as a mechanism to “break a deadlock, a tool to speed up matters and to do it cheaply” (Parliamentary Monitoring Group, 2019). The issue with expropriation does not lie in the wording of section 25 of the Constitution. She cautioned that implementing expropriation of land without compensation “would violate even the limitations clause in the Constitution (section 36) as well as section 1, as it would treat all people the same without regard for individual circumstances, including whether the person was previously disadvantaged or not” (Parliamentary Monitoring Group, 2019). Despite these reflections, on 3 December 2019 the ad hoc committee introduced legislation to amend section 25 of the Constitution. Members of Parliament were tasked with considering under which circumstances expropriation of land without compensation would be applicable. This would need to be included in the amendment (Parliament of the Republic of South Africa, 2019).

Current approaches to land reform are due to political failure and the ANC has acknowledged that as a ruling party, it has failed to confront the land issue and that it could have done so within the framework of the constitution. Kgalema Motlanthe, who headed the parliamentary high level panel, reported in 2018 that the failings of land reform are not due to constitutional limitations, but rather a lack of clear policy administration, weak policy budgets, weak governmental institutions, corruption and mismanagement (Hall (b), 2018). While amendments to the Constitution are under review, the government will continue to expropriate land, paying an equitable amount of compensation for the land (Hall (b), 2018).

The South African Government already expropriates land for public interest. However, the ANC is now considering expropriation for land reform purposes, which it has deemed as necessary. When there is a land claim on a specific property, in order to address the historical injustices of land dispossession, the constitution already authorises the government to intervene.

The ANC and EFF, while having different approaches to the implementation of the expropriation of land without compensation, have united in support of the motion. The DA, along with other smaller opposition parties including the Inkatha Freedom Party (IFP) and the African Christian Democratic Party (ACDP) firmly oppose this motion.

The divisions on amending the Constitution to allow for the expropriation of land without compensation are stark. The DA are opposed, and are rather pushing for title deeds, security, restitution and better financial allocations for efficient land reform. Though the ANC and the EFF seem to have the same position in accordance to compensation-less expropriation of land and the amendment of the Constitution because both their votes are required to reach the two-thirds majority threshold, there are still significant differences in their stances on the purpose and extent of expropriation, compensation and a constitutional amendment.

Constitutions are the supreme law of any given country. A constitution consolidates the primary decisions made by a country and its citizens. It establishes the basis of social and political life. Therefore, it is important that constitutions are “foundational and enduring” (Bockenforde, 2017: 4). If they are to endure, it is essential that they respond to the changing circumstances within the country. Constitutions should allow for amendment for the following reasons: 1) adjusting the Constitution to the environment the political system operates in; 2) correcting the provisions that have proved to be inadequate; and 3) further improve or strengthen democratic institutions (Bockenforde, 2017: 4).

Section 25 of the Constitution already allows for the expropriation of land without compensation in the public interest. The question that should be asked is whether amending section 25 of the Constitution is necessary if it already allows for the expropriation of land without compensation?

Amending section 25 of the Constitution to allow for the expropriation of land without compensation was adopted by the National Assembly in July 2019. The ad hoc committee on land reform had until 31 May 2020 to conclude its work. However, the committee did not conclude its work. Phakathi has stated that it is unlikely that the land issue will be finalised in 2020 due to the restrictions the Covid-19 lockdown has imposed on public gatherings (2020).

5.3.3 Summary analysis: Extent of elite consensus on institutional rules of the game and codes of political conduct

The section discussed political parties' individual stance towards each other and towards the broader political institutions and the Constitutional framework within which they operate. In particular, the section discussed the extent to which these elites accept one another as legitimate participants in the political process, accept the political institutions they frequent (Parliament) as legitimate, and whether they especially accept the legitimacy of the Constitutional order. This section concludes that while elites cooperate within the parliamentary arena and tolerate each other, some elite groupings do not necessarily accept one another as legitimate participants in the political process. The call by two major political elites to amend the Constitution calls into question the extent to which they are willing to find policy solutions within the current constitutional framework. It is important to note that political elites have not made use of unconstitutional means to achieve their goals in relation to their vision of land reform. Political elites have conducted debates and parliamentary meetings within the framework of the Constitution.

Chapter 6: Conclusion

This study has analysed the three major parties' values and policies on land reform. The aim of this study was to determine whether there is sufficient consensus among political elites on land reform. It has been identified that there is consensus among the political elites that land reform is vital policy. However, there is a lack of agreement on how land reform should be achieved. The ANC and the EFF have agreed that the Constitution should be amended to allow for the expropriation of land without compensation. However, the ANC and EFF do not share a common vision for the policy outcome of this Constitutional amendment. The DA has argued that there is no need to amend the Constitution to allow for the expropriation of land without compensation because the Constitution already allows for this in the public interest or for public purposes. Each political party has its own focus on land reform initiatives and the outcomes these initiatives should achieve.

This thesis uses two indicators to measure elite consensus, namely 1) procedural and institutional consensus and 2) consensus on core values and agreement over vital policy matters. In accordance to procedural and institutional consensus, it is clear that there is agreement among the political elites on democratic procedures and rules of the democratic game. Political elites accept one another as legitimate participants in the political process. While their debates in parliament, committee meetings, etc. may be robust and irrational, this should not be confused with a lack of consensus on the rules of game.

In relation to consensus on core values and agreement on vital policy issues, political elites do share core values underpinning land reform. Political elites within each political party studied here agree that land reform is a vital policy issue and that land redistribution should be administered. However, they do not share a common vision on the policy of land reform. The DA, the EFF and the ANC each have their own vision for how land reform should be implemented and the outcomes they find most essential. Nevertheless, this lack of agreement on the vision of land reform policy should is not sufficient to undermine elite consensus in general.

One can argue that there is in fact consensus on the rules of the game, as well as democratic procedures. Political elites have carried out political debates on land reform within a democratic framework, even if it is somewhat robust and frictional at times. The existing lack of agreement on some ideological (values) issues is not sufficient to undermine elite consensus in general. Animosity and friction during these debates on land reform should not be confused with a lack of consensus on the rules of democratic procedures.

Elite consensus theory has argued that if political elites do not agree on the rules of democratic procedures, the democratic consolidation process will be hindered. The existing lack of agreement on some ideological (values) issues is insufficient to undermine elite consensus on the rules of the game. Sniderman et al (1991: 349) has argued that if political elites disunite to the point where they cannot agree on a policy solution, the policy process itself will be hindered. Therefore, South Africa's democratic consolidation process will not be hindered by a lack of consensus on ideological issues on land reform because elite consensus on the rules of the game has shown to be important to South African political elites. South African political elites can be considered "consensually unified".

There were limitations in analysing the comparisons in Chapter 4, as the data used in this study was only secondary data. There was also a limitation with regard to using case studies because there were not sufficient case studies that referred directly to elite consensus on land reform in South Africa.

This thesis has achieved the mentioning and analysis of the positions and policies of political elites within the ANC, the DA and the EFF on the land question in South Africa. Chapter 4 presents a deduction of the need for South African political elites to become more cooperative and less condescending and antagonistic. It is clear that this antagonistic and unparliamentary behaviour has hindered effective decision-making in relation to addressing the land question. It is clear that South African elites struggle to reach a consensus on any policy issue. The policy process is continuously delayed because of this.

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